This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.

+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.

+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.

+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`

The writings and speeches of Daniel Webster

Daniel Webster, Edward Everett

Digitized by Google

HARVARD LAW LIBRARY.

Received Sept. 1, 1903

Digitized by Google

Digitized by Google

Digitized by Google

Digitized by Google

Digitized by Google

THE
WRITINGS AND SPEECHES
OF
DANIEL WEBSTER

National Edition

VOLUME NINE

Digitized by Google

THE NATIONAL EDITION OF THE WRITINGS & SPEECHES OF DANIEL WEBSTER IS LIMITED TO ONE THOUSAND AND FIFTY COPIES

THIS SET IS NUMBER 510

Digitized by Google

Digitized by Google

Digitized by Google

Webster's Home at Green Harbor, Marshfield, Mass.

Engraved by S. A. Schoff, from a Drawing by H. Billings

Digitized by Google

Digitized by Google

THE WRITINGS AND SPEECHES OF DANIEL WEBSTER

IN EIGHTEEN VOLUMES

VOLUME NINE

Digitized by Google

Digitized by Google

The Writings and Speeches of

DANIEL WEBSTER

In Eighteen Volumes · NATIONAL EDITION · Illustrated with Portraits and Plates · VOLUME NINE

SPEECHES IN CONGRESS

BOSTON · LITTLE, BROWN, & COMPANY
NINETEEN HUNDRED AND THREE

Digitized by Google

Tx
W373ur

Copyright, 1903,
By Little, Brown, and Company.

Rec. Sept. 1, 1903

UNIVERSITY PRESS · JOHN WILSON
AND SON · CAMBRIDGE, U. S. A.

Digitized by Google

DEDICATION[1]

TO

J. W. PAIGE, Esq.

My dear Sir:

The friendship which has subsisted so long between us springs not more from our close family connection than from similarity of opinions and sentiments.

I count it among the advantages and pleasures of my life; and I pray you to allow me, as a slight but grateful token of my estimate of it, to dedicate to you this volume of my Speeches.

DANIEL WEBSTER.

[1] Volume V, Edition of 1851.

Digitized by Google

Digitized by Google

CONTENTS

Speeches in Congress

PAGE

A UNIFORM SYSTEM OF BANKRUPTCY 3

A Speech delivered in the Senate of the United States, on the 18th of May, 1840, on the proposed Amendment to the Bill establishing a Uniform System of Bankruptcy.

A UNIFORM SYSTEM OF BANKRUPTCY 26

A speech delivered in the Senate of the United States, on the 5th of June, 1840, on Mr. Clay's motion to strike out the Compulsory Part of the Bankrupt Bill.

STATE OF THE FINANCES IN 1840 40

Remarks upon that Part of the President's Message which relates to the Revenue and Finances, delivered in the Senate of the United States, on the 16th and 17th of December, 1840.

THE ADMISSION OF TEXAS 55

Remarks made in the Senate of the United States, on the 22d of December, 1845, on the Admission of the State of Texas into the Union.

OREGON 60

Remarks on the Resolutions moved by General Cass, made in the Senate of the United States, on the 15th of December, 1845, directing Inquiry into the Condition of the Military Defences of the Country.

OREGON 63

Remarks made in the Senate of the United States, on the 26th of February, 1846, on the various Propositions before the Senate relative to giving Notice to the British Government of the Intention of the Government of the United States to put an End to the Convention for the Joint Occupation of the Oregon Territory.

Digitized by Google

PAGE

OREGON 70
Remarks made in the Senate of the United States on the 30th of March, 1846, on a Resolution moved by Mr. Clayton of Delaware, on the 3d instant, calling upon the President for such Portions of the Correspondence between the Governments of the United States and Great Britain, as had not already been communicated.

DEFENCE OF THE TREATY OF WASHINGTON 78
A Speech delivered in the Senate of the United States, on the 6th and 7th of April, 1846.

ORGANIZATION OF THE VOLUNTEER FORCE 151
Remarks made in the Senate, on the 24th of June, 1846, on "A Bill to provide for the Organization of the Volunteer Force brought into the Service of the United States."

THE TARIFF 161
A Speech delivered in the Senate of the United States, on the 25th and 27th of July, 1846, on the Bill "to reduce the Duties on Imports, and for other Purposes."

THE TARIFF 236
Remarks made in the Senate of the United States, on the 28th of July, 1846, on a Motion to discharge the Committee of Finance from the further Consideration of the Subject.

THE SUB-TREASURY 244
Remarks made in the Senate of the United States, on the 1st of August, 1846, on the Third Reading of the Bill "to provide for the Better Organization of the Treasury, and for the Collection, Safekeeping, Transfer, and Disbursement of the Public Revenue."

THE MEXICAN WAR 253
Remarks made in the Senate of the United States, on the 1st of March, 1847, on the Bill commonly called the "Three Million Bill," by which that Sum of Money was appropriated for the Purpose of discharging any extraordinary Expenses which might be incurred in bringing the War to a Conclusion.

THE TEN REGIMENT BILL 262
Remarks made in the Senate of the United States, on the 17th of March, 1848, on the Bill to raise for a limited Time an additional Military Force, commonly called the "Ten Regiment Bill."

Digitized by Google

List of Illustrations

VOLUME NINE

Green Harbor, Mr. Webster's Marshfield Residence . *Frontispiece*

Engraved by S. A. Schoff, from a drawing by H. Billings.

Daniel Webster . . . . . *Engraved Title*

From the painting by Chester Harding, in the possession of Mrs. Abbott Lawrence

William Henry Harrison . . . . . *Page* 121

From the painting by Heywood, in the possession of his granddaughter, Miss Betty Harrison Eaton

William H. Seward . . . . . " 138

From a photograph from life, by Brady, Washington, D. C.

Lewis Cass . . . . . " 262

From the painting by G. P. A. Healy, in the possession of Mrs. M. C. Ledyard

Digitized by Google

Digitized by Google

Speeches in Congress

(CONTINUED)

Digitized by Google

Digitized by Google

A Uniform System of Bankruptcy*

On the 1st of April, 1840, Mr. Webster obtained leave of the Senate to introduce a bill to establish a uniform system of bankruptcy, which was referred to the Standing Committee on the Judiciary. On the 3d of April, another bill for the same purpose was introduced, on leave, by Mr. Tallmadge of New York, and referred in like manner to the Judiciary Committee. These bills on the 18th of the same month were reported back to the Senate, without amendment. On the 22d of April, Mr. Clayton of Delaware, a member of the Judiciary Committee, reported a bill on the same subject; and on the same day, Mr. Wall of New Jersey, chairman of the committee, and on behalf of a minority, submitted an amendment intended to be proposed to the original bill introduced by Mr. Webster. The subject thus brought before the Senate was discussed for many successive days, principally in reference to the amendment proposed by the minority of the committee to Mr. Webster's bill. The character of the bill and of the amendment will sufficiently appear from the following speech.

I feel a deep and anxious concern for the success of this bill, and, in rising to address the Senate, my only motive is a sincere desire to answer objections which have been made to it, so far as I may be able, and to urge the necessity and importance of its passage. Fortunately, it is a subject which does not connect itself with any of the party contests of the day; and although it would not become me to admonish others, yet I have prescribed it as a rule to myself, that, in attempting to forward the measure, and to bring it to a successful termination, I shall seek no party ends, no party influence, no party advancement. The

* A Speech delivered in the Senate of the United States, on the 18th of May, 1840, on the proposed Amendment to the Bill establishing a Uniform System of Bankruptcy.

Digitized by Google

subject, so far as I am concerned, shall be sacred from the intrusion of all such objects and purposes. I wish to treat this occasion, and this highly important question, as a green spot in the midst of the fiery deserts of party strife, on which all may meet harmoniously and amicably, and hold common counsel for the common good.

The power of Congress over the subject of bankruptcies, the most useful mode of exercising the power under the present circumstances of the country, and the duty of exercising it, are the points to which attention is naturally called by every one who addresses the Senate.

In the first place, as to the power. It is fortunately not an inferred or constructive power, but one of the express grants of the Constitution. "Congress shall have power to establish uniform laws on the subject of bankruptcies throughout the United States." These are the words of the grant; there may be questions about the extent of the power, but there can be none of its existence.

The bill which has been reported by the committee provides for voluntary bankruptcies only. It contains no provisions by which creditors, on an alleged act of bankruptcy, may proceed against their debtors, with a view to subject them and their property to the operation of the law. It looks to no coercion by a creditor to make his debtor a subject of the law against his will. This is the first characteristic of the bill, and in this respect it certainly differs from the former bankrupt laws of the United States, and from the English bankrupt laws.

The bill, too, extends its provisions, not only to those who, either in fact or in contemplation of law, are traders, but to all persons who declare themselves insolvent, or unable to pay their debts and meet their engagements, and who desire to assign their property for the benefit of their creditors. In this respect, also, it differs from the former law, and from the law of England.

The questions, then, are two: 1st. Can Congress constitutionally pass a bankrupt law which shall include other persons besides traders? 2d. Can it pass a law providing for voluntary cases only, that is, cases in which the proceedings originate only with the debtor himself?

The consideration of both these questions is necessarily in-

Digitized by Google

volved in the discussion of the present bill, inasmuch as it has been denied that Congress has power to extend bankrupt laws farther than to merchants and traders, or to make them applicable to voluntary cases only. This limitation of the power of Congress is asserted on the idea that the framers of the Constitution, in conferring the power of establishing bankrupt laws, must be presumed to have had reference to the bankrupt laws of England, as then existing; and that the laws of England then existing embraced none but merchants and traders, and provided only for involuntary or coercive bankruptcies.

Now, Sir, in the first place, allow me to remark, that the power is granted to Congress in the most general and comprehensive terms. It has one limitation only, which is, that laws on the subject of bankruptcies shall be uniform throughout the United States. With this qualification, the whole subject is placed within the discretion and under the legislation of Congress. The Constitution does not say that Congress shall have power to pass *a* bankrupt law, nor to introduce *the* system of bankruptcies. It declares that Congress shall have power to "establish uniform laws on the subject of bankruptcies throughout the United States." This is the whole clause; nor is there any limitation or restriction imposed by any other clause.

What, then, is "the subject of bankruptcies"? or, in other words, what are "bankruptcies"? It is to be remembered that the Constitution grants powers to Congress by particular or specific enumeration; and, in making this enumeration, it mentions bankruptcies as a head of legislation, or as one of the subjects over which Congress is to possess authority. Bankruptcies are the subject, and the word is most certainly to be taken in its common and popular sense; in that sense in which the people may be supposed to have understood it, when they ratified the Constitution. This is the true rule of interpretation. And I may remark, that it is always a little dangerous, in construing the Constitution, to search for the opinions or understanding of members of the Convention in any other sources than the Constitution itself, because the Constitution owes its whole force and authority to its ratification by the people, and the people judged of it by the meaning most apparent on its face. How particular members may have understood its provisions, if it could be ascertained, would not be conclusive. The

Digitized by Google

question would still be, How did the people understand it? And this can be decided only by giving their usual acceptation to all words not evidently used in a technical sense, and by inquiring, in any case, what was the interpretation or exposition presented to the people when the subject was under consideration.

Bankruptcies, in the general use and acceptation of the term, mean no more than failures. A bankruptcy is a fact. It is an occurrence in the life and fortunes of an individual. When a man cannot pay his debts, we say he has become a bankrupt, or has failed. Bankruptcy is not merely the condition of a man who is insolvent, and on whom a bankrupt law is already acting. This would be quite too technical an interpretation. According to this, there never could be bankrupt laws, because every law, if this were the meaning, would suppose the existence of a previous law. Whenever a man's means are insufficient to meet his engagements and pay his debts, the fact of bankruptcy has taken place; a case of bankruptcy has arisen, whether there be a law providing for it or not.

There may be bankruptcies, or cases of bankruptcy, where there are no bankrupt laws existing. Or bankrupt laws may exist, which shall extend to some bankruptcies, or some cases of bankruptcy, and not to others. We constantly speak of bankruptcies happening among individuals, without reference to existing laws. Bankruptcies, as facts, or occurrences, or cases for which Congress is authorized to make provision, are failures. A learned judge has said that a law on the subject of bankruptcies, in the sense of the Constitution, is a law making provision for persons failing to pay their debts. Over the whole subject of these bankruptcies, or these failures, the power of Congress, as it stands on the face of the Constitution, is full and complete.

And now, let us see how it is that this broad and general power is, or can be, limited by a supposed reference to the English system. The argument is this. The members of the Convention which framed the Constitution, in conferring this power on Congress, must be supposed to have had reference to the bankrupt laws of England; and the bankrupt laws of England, as then existing, embraced only merchants and traders, and were only applied to debtors at the instance of their creditors; therefore the inference is said to be, that traders only should be re-

Digitized by Google

garded as subjects of any bankrupt law to be passed by Congress, and that no such law should give the debtor himself a right to become bankrupt, at his own request; or at least, that every such law should give a right to the creditor to proceed against his debtor. But is this the just analogy? Is this the point of view in which a general resemblance of our system and the English system may be supposed to have been contemplated? Clearly not, in my opinion. Let it be admitted that the framers of the Constitution looked to England for a general example; they must be supposed, nevertheless, to have looked to the power of Parliament, and not to the particular mode in which that power had been exercised, or the particular law then actually existing. The true analogy is, as it seems to me, between power and power; the power of Parliament and the power of Congress; and not between the power of Congress and any actually existing British statute, which might be, perhaps, in many respects, quite unsuitable to our condition.

The members of the Convention did not study the British statutes, nor examine judicial decisions, to ascertain the precise nature of the actually existing system of bankruptcy in England. Still less did the people of the United States trouble themselves with such inquiries. All saw that Parliament possessed and exercised a power of passing bankrupt laws, and of altering and amending them, from time to time, according to its own discretion, and the necessities of the case. This power they intended to confer on Congress, as largely, for aught that appears, as they saw it held by Parliament. The early British statutes were not confined to traders; later statutes were so confined; and more recently, again, changes have been made, which bring in very numerous classes of persons who were not esteemed traders, in England, at the time of the adoption of the Constitution of the United States. I may add that bankrupt laws, properly so called, or laws providing for the *cessio bonorum*, on the continent of Europe, and in Scotland, were never confined to traders; and while the members of the Convention may be supposed to have looked to the example of England, it is by no means improbable that they contemplated also the example and institutions of other countries. There is no reason to suppose that it was intended to tie up the hands of Congress to the establishment of that particular bankrupt system which ex-

Digitized by Google

isted in England in 1789, and to deny to it all power of future modification and amendment. It would be just as reasonable to say that the United States laws of copyright, of patents for inventions, and many others, could only be mere transcripts of such British statutes on the same subjects as existed in 1789.

The great object was to authorize Congress to establish a uniform system throughout all the States. No State could of itself establish such a system; it could only establish a system for itself; and the diversities, inconsistencies, and interferences of the several State systems had been subjects of much well-grounded complaint. It was intended to give Congress the power to establish uniformity in this respect; and if the English example was regarded, it was regarded in its general character of a power in Parliament to pass laws on the subject, to repeal them, and pass others, in its discretion, and to deal with the whole subject, from time to time, as experience of the exigencies of the public should suggest or require. The bankrupt system of England, as it existed in 1789, was not the same which had previously existed, nor the same as that which afterwards existed, or that which now exists. At first, the system was coercive, and the law a sort of criminal law, extending to all persons, as well as traders. But changes had taken place before 1789, and other changes, and very important changes, have taken place since. The system is now greatly simplified and improved, and it is also made much more extensive as to those whom it embraces. It is hardly too much to say, that it is preposterous to contend, not only that we are to refuse to ourselves the light of our own experience, and all regard to our own peculiar situation, but that we are also to exclude from our regard and notice all modern English improvements, and confine ourselves to the English bankrupt laws as they existed in 1789. The power of Congress is given in the fullest manner, and by the largest and most comprehensive terms and forms of expression; and it cannot be limited by vague presumptions of a reference to other existing codes, or loose conjectures about the intents of its framers, nowhere expressed or intimated in the instrument itself, or any contemporaneous exposition.

I think, then, that Congress may pass a law which shall include persons not traders, and which shall include voluntary cases only. And I think, further, that the amendment proposed

Digitized by Google

by the honorable member from New Jersey is, in effect, exactly against his own argument. I think it admits all that he contends against. In the first place, he admits voluntary bankruptcies, and there were none such in England in 1789. This is clear. And in the next place, he admits any one who will say that he has been concerned in trade; and he maintains, and has asserted, that in this country any body may say that. Any body, then, may come in under the bill. The only difference is, unless he is *bonâ fide* a trader, he must come in under a disguise, or in an assumed character. Whatever be his employment, occupation, or pursuit, he must come in as a trader, or as one who has been concerned or engaged in trade. The honorable member attempts a distinction between the traders and those who can say that they have been engaged in trade. I cannot see the difference. It is too fine for me. A trader is one concerned in trade, and to be concerned in trade is to be a trader. What is the difference? But if persons may be concerned in trade, and yet not be traders, still such persons were not embraced in the English statutes, which apply to traders by name; and therefore the gentleman's bill would embrace persons not within those statutes as they stood in 1789.

The gentleman's real object is, not to confine the bill to traders, but to embrace every body; and yet he deems it necessary for every person applying to state, and to swear, that he has been engaged in trade. This seems to me to be both superfluous and objectionable; superfluous, because, if we have a right to bring in persons under one name, we may bring in the same persons under another name, or by a general description; objectionable, because it requires men to state what may very much resemble a falsehood, and to make oath to it. Suppose a farmer or mechanic to fail; can he take an oath that he has been engaged in trade? If the objection to bring in others than traders is well founded in the Constitution, surely mere form cannot remove it. Words cannot alter things. The Constitution says nothing about traders. Yet the honorable gentleman's amendment requires all applicants to declare themselves traders; and if they will but say so, and swear so, it shall be so received, and nobody shall contradict it. In other words, a fiction, not very innocent, shall be allowed to overcome an unconstitutional objection. The gentleman has been misled by a false analogy.

Digitized by Google

He has adopted an example which does not apply to the case, and which he yet does not follow out. The British statutes are confined to traders. But then they contain a long list of persons who, it is declared, shall be deemed and taken to be traders within the acts. This list they extend, from time to time; and whenever any one included within the list becomes a voluntary bankrupt, he avers, in substance, that he is a trader, within the act of Parliament. If it had been necessary, as it is not, to follow this example at all, the gentleman's bill should have declared all persons traders for the purposes of this act, and then every body could have made the declaration without impropriety, as in England the applicant only states that which the law has made true. He declares himself a trader, because the law has already declared that he shall be considered a trader. His conscience, therefore, is protected. He swears only according to the act of Parliament, if he swear at all. But as the provision stands here, it calls on every one to declare himself a trader, or that he has been engaged in trade, not within the particular meaning or sense of any act of Congress, but in the usual and popular acceptation of the word.

Suppose, Sir, a cotton-planter, by inevitable misfortune, by fire or flood, or by mortal epidemics among his hands, is ruined in his affairs. Suppose he desires to make a surrender of his property, and be discharged from his debts. He will be told, You cannot have the benefit of the law as a cotton-planter; it is made only for traders, or persons engaged in trade. Are you not a trader? No. I am no trader, and was never engaged in trade. I bought my land here, bought my hands from Carolina, have bought my stock from Kentucky, and raised cotton and sold it. But I never bought an article to sell again. I am no trader. But you must swear that you have been engaged in trade; you must apply, not as John Jones, Esquire, cotton-planter, on the Red River, but as Mr. John Jones, trader, at his storehouse, at or near the plantation of John Jones, Esquire. And so John Jones, the cotton-planter, must either remain as he is, excluded from the provisions of the law altogether, or sneak into them under a disingenuous fiction, if it be not something worse.

This attempt, therefore, Sir, to avoid a supposed difficulty, encounters two decisive objections. In the first place, there is

Digitized by Google

no difficulty to be avoided; in the second place, if there were, this manner of avoiding it would be mere evasion.

But now, Sir, I come to a very important inquiry. The Constitution requires us to establish *uniform* laws on the subject of bankruptcy, if we establish any. What is this uniformity, or in what is it to consist? The honorable gentleman says that the meaning is, that the law must give a coercive power to creditors, as well as a voluntary power to debtors; that this is the constitutional uniformity. I deny this altogether. No idea of uniformity arises from any such consideration. The uniformity which the Constitution requires is merely a uniformity throughout all the States. It is a local uniformity, and nothing more. The words are perfectly plain, and the sense cannot be doubted. The authority is, to establish uniform laws on the subject of bankruptcies throughout the United States. Can any thing be clearer? To be uniform is to have one shape, one fashion, one form; and our bankrupt laws, if we pass them, are to have one shape, one fashion, and one form in every State. If this be not so, what is the sense of the concluding words of the clause, "throughout the United States"? My honorable friend from Kentucky* has disposed of this whole question, if there ever could be a question about it, by asking the honorable gentleman from New Jersey what *uniform* means, in the very same clause of the Constitution, where the word is applied to rules of naturalization; and what it means in a previous clause, where it declares that all duties of impost shall be *uniform* throughout the United States.

It can hardly be necessary to discuss this point further. If it were, the whole history of the Constitution would show the object of the provision. Bankrupt laws were supposed to be closely connected with commercial regulations. They were considered to be laws nearly affecting the intercourse, trade, and dealing between citizens of different States; and for this reason it was thought wise to enable Congress to make them uniform. The Constitution provided that there should be but one coinage, and but one power to fix the value of foreign coins. The legal medium of payment, therefore, in fulfilment of contracts, was to be ascertained and fixed, for all the States, by Congress,

* Mr. Crittenden.

Digitized by Google

and by Congress alone; and Congress, and Congress alone, was to have the power of providing a uniform mode in which contracts might be discharged without payment. Look to the discussion of the times; to the expositions of the Constitution by its friends when they urged its adoption; look to all within the Constitution, and all without it; look anywhere, or everywhere, and you will see one and the same purpose, one and the same meaning; and that meaning cannot be more clearly expressed than the words of the clause themselves express it, that laws to be established by Congress on the subject of bankruptcies *shall be uniform throughout the United States.*

Now, Sir, the gentleman's bill is not uniform. It proposes that there may be one law in Massachusetts, and another in New Jersey. The gentleman's bill includes corporations; but then it gives each State a power to exempt its own corporations, or any of them, from the operation of the law, if it shall so choose. It decides what shall be, in the case of banks, an act of bankruptcy; but then it provides that any State may say, nevertheless, that, in regard to its own banks, or any of them, this shall not be an act of bankruptcy.

Here is the provision: —

"*Provided, however*, That nothing herein contained shall apply to, or in any wise affect, any corporation or association of persons, incorporated or acting under a law of any State of the Union, or any Territory of the United States, where such corporation or association shall be authorized by their charter, or any express law of such State or Territory, to do or commit the act herein declared to be an act of bankruptcy, or where, by any such law of any such State or Territory, the said incorporation or association of persons shall or may be exempted from the provisions of this act."

Pray, Sir, what sort of uniformity is this? A uniformity which consists in the authorized multiplication of varieties. Who will undertake to defend legislation of this kind, under our power to establish uniform laws on the subject of bankruptcies throughout the United States? Not only is it in direct violation of the plain text of the Constitution, but it leaves the very evils, every one of them, which a provision in the Constitution intended to shut out. The Constitution says that Congress may *establish* uniform laws; the gentleman's bill says that Congress may *propose* a law, at least so far as corporations are concerned, but

Digitized by Google

that still each State may take what it likes, and reject the rest; and this, he contends, is establishing a uniform law.

I pray, Sir, where is this power of exemption to stop? If we may authorize States to exempt their corporations, may we not, with equal propriety, authorize them to exempt their individual citizens? May we not say that each State may decide for itself whether it will have any thing to do with the law, when we have passed it, or what parts it will adopt, and what parts it will refuse to adopt?

But, Sir, I must wait till some attempt is made to defend this part of the gentleman's bill. I must see some show of propriety, some plausibility, before I reason against it further. In the view I take of it at present, it appears to me utterly repugnant to the plain requirements of the Constitution, and destitute, not only of all argument for its support, but of all apology also. I see nothing in it but naked unconstitutionality.

But, Mr. President, if these provisions were constitutional, they would still be in the highest degree unjust, inexpedient, and inadmissible. What is the object of bringing the banks into the bill at all? Certainly there can be no just object other than to insure the constant and punctual discharge of their duties, by always paying their notes on presentment. Clearly there can be no object but to prevent their suspensions of payment. And it might be said that this object was kept in view, if the law were uniform, peremptory, inflexible, and applying to all banks. But when you give the power of exemption to the States, you sanction the very evil which you propose to remedy. You profess to prescribe a general rule, and yet authorize and justify its violation. Do not the States now exempt their banks, and is not that the very evil from which we suffer? Is not suspension, under the authority of State exemption, the topic, the discussion of which every day nearly stuns us by its reverberation from the walls of this chamber? The charters of the banks are, in general, well enough. They require punctual specie payments, under severe penalties, and, in some cases, under the penalty of forfeiture. But under the pressure of circumstances, and from a real or supposed necessity, the States relieve the banks from these penalties, and forbear to enforce the forfeitures. And will they not, most assuredly, also relieve the banks in the same manner, and for the same reasons, if they have the power,

Digitized by Google

from the penalties of our bankrupt law? State permission, State indulgence, State exemption, is the very ground on which suspension now stands, and on which it is justified. And it is now proposed that Congress shall give its authority and sanction to all this. It is proposed that Congress shall solemnly recognize the principle, and approve and sanction the practice, of State exemption, of the suspension of specie payments by State authority. If the States will not enforce their own laws against the banks, can any one imagine that they will see the equally or still more severe penalties of our bankrupt law enforced, while they have the power to prevent it?

Some weeks ago, the honorable member from Pennsylvania* moved for a committee to inquire into the propriety of amending the Constitution, so as to insert a provision giving Congress power to restrain the circulation of small bank-notes. I did not concur in his measure, not thinking the Constitution needed amendment in that respect; but his argument was quite intelligible. He said that this abolition of small bills could not now be accomplished, because the States could not be brought to act in concert; yet they might all be brought to consent that Congress should establish a uniform rule upon the subject. That was a fair reasoning towards a proper object. It went for uniformity on a point of great commercial importance. But how is it here? We do not propose uniformity; we do not require that one rule may extend over all. Far otherwise; for we propose to authorize difference, according to the discretion and circumstances of the State. Having the power to establish uniformity, we delegate an authority to create variety. Charged by the Constitution to establish one rule, we ourselves, instead of performing that duty, call upon others to establish different and varying rules. All must see to what this leads, or rather, what this is; for it is a measure which would be perfect in its beginning; it would reach its destiny at its commencement, its mischievous tendencies would be accomplished at its birth. The passage of this bill would add the solemn sanction of Congress to the sanction by the States of the suspension of specie payments by the banks. That is the practical sum and substance, the long and the short of the whole matter. If our constitu-

* Mr. Buchanan.

Digitized by Google

tional power enables us to embrace the banks in this bill, and if we see no insuperable or greatly formidable practical objections, then, I think, we ought to include them all, without any power of escape.

Suppose the bill should be made uniform, then, and include all banks; have we the power, and is it expedient, to pass it in that shape?

On the motion for a committee, made some time ago by the member from Pennsylvania, to which I have already referred, I suggested the opinions which I entertain on one branch of the power of Congress connected with this subject. The constitutional point now arising I do not mean to treat, nor to decide; it is open to others, and will, no doubt, be discussed by them. But upon the expediency or propriety of including banks and other corporations in this bill, I will say a few words. The State with which I am connected can have as little objection to including banks in the bankrupt bill as any other State. Many persons in Massachusetts, quite respectable and well informed, are in favor of the measure. But it appears to me they have not well considered the practical difficulties. Let us look at what is proposed to be done.

There are eight hundred or a thousand State banks in the country, each with its charter conferring its rights, prescribing its duties, and enjoining penalties. They are banks of deposit, banks of discount, and banks of circulation. It is now generally admitted that they are lawfully created. Their legal existence is established. They possess in the aggregate, I suppose, two hundred millions of capital. Some of them are founded entirely on private ownership, while in some others the States creating them are proprietors, and in some others, again, the States are sole proprietors. Some of them have a right to suspend specie payments for a limited time; others have not this right, the charter of each being its own constitution.

Such being the general state of things, it is now proposed to subject all these banks to the operation of a bankrupt law, so that, when they stop payment for a day or an hour, their property and effects may be seized for distribution among their creditors, and their operations broken up. It is proposed to do this, although the charters of the banks may expressly authorize them to do that very thing which is an act of bankruptcy under this

Digitized by Google

bill, and for which their property is to be thus seized. Here is certainly a direct collision between State authority and the authority of the United States, which ought to be avoided whenever it can be. The act of Congress in this case would be made to repeal or annul *pro tanto* the law of the State. I do not say that this can in no case be done; but I say that all such collisions ought to be avoided, if possible.

It is proposed that Congress shall prescribe duties to the banks not prescribed by their own charters; and for the violation of those duties thus prescribed by Congress, it is proposed to proceed against them as bankrupts, to sequestrate their effects, and virtually annul their franchises. If this can be done, should it be done without clear and cogent necessity? Without wishing to represent the proposition as extravagant, or speaking of it with disrespect, it seems to me to be bold, if not rash, until a case of absolute necessity is made out. What would become of the bank stock in case of such seizure and sequestration? What extent of depression and fluctuation would attach to it, when such a law should be passed? What would become of the entire circulation of the country, if a general suspension should happen, and all the banks should be thus seized? What would become of the country, creditors and debtors, and of all business, if a general suspension should happen, and all the banks should be placed in the hands of the federal courts, their paper entirely disgraced, and an immediate collection of all their debts attempted to be enforced? What would become of some of the States who own the banks, and of others who derive revenues from them? And how could such immense affairs be administered by the courts of the United States? These difficulties appear to me to be startling. If, indeed, we were quite confident that such a provision would hereafter prevent all general suspensions, we might venture upon the measure. We might expect to be able to deal with here and there an individual case. But this provision is not certain to prevent general suspension in great emergencies or great commercial revolutions. Twice within a few years the banks have suspended, notwithstanding the penalties of their own charters and the laws of their own States. The real truth is, that, in the absence of all regulation or control by Congress, the banks have attempted, and do attempt, regulation by their own concert of action. They make a law for themselves.

Digitized by Google

A general suspension is the result of a general concurrence, or of a general conviction of the necessity of suspension, on the part of all the banks, or many of them. This has happened, and, in the present state of affairs, may happen again, notwithstanding a bankrupt law. In my opinion, indeed, it is certain to happen, notwithstanding all the bankrupt laws we can pass, until Congress shall do its duty by enacting prospective and preventive remedies; and if it should happen, one of two things must ensue; either Congress would be called together to repeal the law, or an utter and dead stop would take place in the payment of debts, in the concerns of commerce, and, indeed, in all the business of life.

In addition to the charters, it is to be remembered that several of the States have provisions of their own, founded on their own statutes, for proceeding against failing banks. Such banks are put into commission, or under sequestration, by the State courts, and a judicial administration and settlement of their affairs take place. Is our bankrupt law expected to supersede these State bankrupt laws? Are our courts to dispossess the State courts?

Sir, I will not pursue this subject further. I repeat, that, in the part of the country to which I belong, I believe there is a pretty strong disposition to include the banks in the bankrupt law. The people in that quarter apprehend from it no danger to themselves or their own institutions, and they wish to see banks elsewhere coerced, by the most effectual means, to resume and to maintain specie payments. I need not say, that they are among the greatest sufferers by the present most ruinous state of things. They pay, and others do not pay them. They cannot long stand the present state of the currency, and, like them, I am ready to adopt any practical measure, any thing short of convulsive shocks between State authority and the authority of the United States, to relieve it. But I confess, that, for myself, to say nothing of the constitutional points, I see formidable difficulties in subjecting State banks to forfeiture and destruction by an act of bankruptcy. At any rate, if the banks are to be dealt with in bankruptcy at all, their case would require, obviously, very many peculiar provisions, and they should constitute the subject of a bill by themselves. Such a bill should be prospective, the commencement of its operation de-

Digitized by Google

ferred, the act of bankruptcy more clearly determined, provision made to avoid, as far as possible, collision with State authorities, and provision also for superseding the commission, on resumption of payment, or security given. Various provisions of this kind, as it seems to me, would be essentially necessary.

Leaving this very important part of the case, another question arises upon the proposed amendment. Shall the bankruptcy act, in its application to individuals, be voluntary only, or both voluntary and compulsory? It is well known that I prefer that it should be both. I think all insolvent and failing persons should have power to come in under its provisions, and be voluntary bankrupts; and I think, too, that, as to those who are strictly merchants and traders, creditors ought to have a right to proceed against them, on the commission of the usual acts of bankruptcy, and subject them to the provisions of the act. But the committee think otherwise. They find many objections to this from many parts of the country, and especially from the West. In a country so extensive, with a people so various, with such different ideas and habits in regard to punctuality in commercial dealings, great opposition is anticipated to any measure so strict and so penal as a coercive bankruptcy. I content myself, therefore, with what I can get. I content myself with the voluntary bankruptcy. I am free to confess my leading object to be, to relieve those who are at present bankrupts, hopeless bankrupts, and who cannot be discharged or set free but by a bankrupt act passed by Congress. I confess that their case forms the great motive of my conduct. It is their case which has created the general cry for the measure. Not that their interest is opposed to the interest of creditors; still less that it is opposed to the general good of the country. On the contrary, I believe that the interest of creditors would be greatly benefited even by a system of voluntary bankruptcy alone, and I am quite confident that the public good would be eminently promoted. In my judgment, all interests concur; and it is the duty of providing for these unfortunate insolvents, in a manner thus favorable to all interests, which I feel urging me forward on this occasion.

And now, Sir, whence does this duty arise which appears to me so pressing and imperative? How has it become so incumbent upon us? What are the considerations, what the rea-

Digitized by Google

sons, which have so covered our tables with petitions from all classes and all quarters, and which have loaded the air with such loud and unanimous invocations to Congress to pass a bankrupt law?

Let me remind you, then, in the first place, Sir, that, commercial as the country is, and having experienced as it has done, and experiencing as it now does, great vicissitudes of trade and business, it is almost forty years since any law has been in force by which any honest man, failing in business, could be effectually discharged from debt by surrendering his property. The former bankrupt law was repealed on the 19th of December, 1803. From that day to this, the condition of an insolvent, however honest and worthy, has been utterly hopeless, so far as he depended on any legal mode of relief. This state of things has arisen from the peculiar provisions of the Constitution of the United States, and from the omission by Congress to exercise this branch of its constitutional power. By the Constitution, the States are prohibited from passing laws impairing the obligation of contracts. Bankrupt laws impair the obligation of contracts, if they discharge the bankrupt from his debts without payment. The States, therefore, cannot pass such laws. The power, then, is taken from the States, and placed in our hands. It is true that it has been decided, that, in regard to contracts entered into after the passage of any State bankrupt law, between the citizens of the State having such law, and sued in the State courts, a State discharge may prevail. So far, effect has been given to State laws. I have great respect, habitually, for judicial decisions; but it has, nevertheless, I must say, always appeared to me that the distinctions on which these decisions are founded are slender, and that they evade, without answering, the objections founded on the great political and commercial objects intended to be secured by this part of the Constitution. But these decisions, whether right or wrong, afford no effectual relief. The qualifications and limitations which I have stated render them useless, as to the purpose of a general discharge. So much of the concerns of every man of business is with citizens of other States than his own, and with foreigners, that the partial extent to which the validity of State discharges reaches is of little benefit.

The States, then, cannot pass effectual bankrupt laws; that

Digitized by Google

is, effectual for the discharge of the debtor. There is no doubt that most, if not all, the States would now pass such laws, if they had the power; although their legislation would be various, interfering, and full of all the evils which the Constitution of the United States intended to provide against. But they have not the power; Congress, which has the power, does not exercise it. This is the peculiarity of our condition. The States would pass bankrupt laws, but they cannot; we can, but we will not. And between this want of power in the States and want of will in Congress, unfortunate insolvents are left to hopeless bondage. There are probably one or two hundred thousand debtors, honest, sober, and industrious, who drag out lives useless to themselves, useless to their families, and useless to their country, for no reason but that they cannot be legally discharged from debts in which misfortunes have involved them, and which there is no possibility of their ever paying. I repeat, again, that these cases have now been accumulating for a whole generation.

It is true they are not imprisoned; but there may be, and there are, restraint and bondage outside the walls of the jail, as well as in. Their power of earning is, in truth, taken away; their faculty of useful employment is paralyzed, and hope itself become extinguished. Creditors, generally, are not inhuman or unkind; but there will be found some who hold on, and the more a debtor struggles to free himself, the more they feel encouraged to hold on. The mode of reasoning is, that, the more honest the debtor may be, the more industrious, the more disposed to struggle and bear up against his misfortunes, the greater the chance is, that, in the end, especially if the humanity of others shall have led them to release him, their own debts may be finally recovered.

Now, in this state of our constitutional powers and duties, in this state of our laws, and with this actually existing condition of so many insolvents before us, it is not too serious to ask every member of the Senate to put it to his own conscience to say, whether we are not bound to exercise our constitutional duty. Can we abstain from exercising it? The States give to their own laws all the effect they can. This shows that they desire the power to be exercised. Several States have, in the most solemn manner, made known their earnest wishes to Con-

Digitized by Google

gress. If we still refuse, what is to be done? Many of these insolvent persons are young men with young families. Like other men, they have capacities both for action and enjoyment. Are we to stifle all these for ever? Are we to suffer all these persons, many of them meritorious and respectable, to be pressed to the earth for ever, by a load of hopeless debt? The existing diversities and contradictions of State laws on the subject admirably illustrate the objects of this part of the Constitution, as stated by Mr. Madison; and they form that precise case for which the clause was inserted. The very evil intended to be provided against is before us, and around us, and pressing us on all sides. How can we, how dare we, make a perfect dead letter of this part of the Constitution, which we have sworn to support? The insolvent persons have not the power of locomotion. They cannot travel from State to State. They are prisoners. To my certain knowledge, there are many who cannot even come here to the seat of government, to present their petitions to Congress, so great is their fear that some creditor will dog their heels, and arrest them in some intervening State, or in this District, in the hope that friends will appear to save them, by payment of the debt, from imprisonment. These are truths; not creditable to the country, but they are truths. I am sorry for their existence. Sir, there is one crime, quite too common, which the laws of man do not punish, but which cannot escape the justice of God; and that is, the arrest and confinement of a debtor by his creditor, with no motive on earth but the hope that some friend, or some relative, perhaps almost as poor as himself, his mother it may be, or his sisters, or his daughters, will give up all their own little pittance, and make beggars of themselves, to save him from the horrors of a loathsome jail. Human retribution cannot reach this guilt; human feeling may not penetrate the flinty heart that perpetrates it; but an hour is surely coming, with more than human retribution on its wings, when that flint shall be melted, either by the power of penitence and grace, or in the fires of remorse.

Sir, I verily believe that the power of perpetuating debts against debtors, for no substantial good to the creditor himself, and the power of imprisonment for debt, at least as it existed in this country ten years ago, have imposed more restraint on personal liberty than the law of debtor and creditor imposes in any

Digitized by Google

other Christian and commercial country. If any public good were attained, any high political object answered, by such laws, there might be some reason for counselling submission and sufferance to individuals. But the result is bad, every way. It is bad to the public and to the country, which loses the efforts and the industry of so many useful and capable citizens. It is bad to creditors, because there is no security against preferences, no principle of equality, and no encouragement for honest, fair, and seasonable assignments of effects. As to the debtor, however good his intentions or earnest his endeavors, it subdues his spirit, and degrades him in his own esteem; and if he attempts any thing for the purpose of obtaining food and clothing for his family, he is driven to unworthy shifts and disguises, to the use of other persons' names, to the adoption of the character of agent, and various other contrivances, to keep the little earnings of the day from the reach of his creditors. Fathers act in the name of their sons, sons act in the name of their fathers; all constantly exposed to the greatest temptation to misrepresent facts and to evade the law, if creditors should strike. All this is evil, unmixed evil. And what is it all for? Of what benefit to any body? Who likes it? Who wishes it? What class of creditors desire it? What consideration of public good demands it?

Sir, we talk much, and talk warmly, of political liberty; and well we may, for it is among the chief of public blessings. But who can enjoy political liberty if he is deprived, permanently, of personal liberty, and the exercise of his own industry and his own faculties? To those unfortunate individuals, doomed to the everlasting bondage of debt, what is it that we have free institutions of government? What is it that we have public and popular assemblies? What is even this Constitution itself to them, in its actual operation, and as we now administer it? What is its aspect to them, but an aspect of stern, implacable severity? an aspect of refusal, denial, and frowning rebuke? nay, more than that, an aspect not only of austerity and rebuke, but, as they must think it, of plain injustice also, since it will not relieve them, nor suffer others to give them relief? What love can they feel towards the Constitution of their country, which has taken the power of striking off their bonds from their own paternal State governments, and yet, inexorable to all the

Digitized by Google

cries of justice and of mercy, holds it unexercised in its own fast and unrelenting grasp? They find themselves bondsmen, because we will not execute the commands of the Constitution; bondsmen to debts they cannot pay, and which all know they cannot pay, and which take away the power of supporting themselves. Other slaves have masters, charged with the duty of support and protection; but their masters neither clothe, nor feed, nor shelter; they only bind.

But, Sir, the fault is not in the Constitution. The Constitution is beneficent as well as wise in all its provisions on this subject. The fault, I must be allowed to say, is in us, who have suffered ourselves quite too long to neglect the duty incumbent upon us. The time will come, Sir, when we shall look back and wonder at the long delay of this just and salutary measure. We shall then feel as we now feel when we reflect on that progress of opinion which has already done so much on another connected subject; I mean the abolition of imprisonment for debt. What should we say at this day, if it were proposed to reëstablish arrest and imprisonment for debt, as it existed in most of the States even so late as twenty years ago? I mean for debt alone, for mere, pure debt, without charge or suspicion of fraud or falsehood.

Sir, it is about that length of time, I think, since you,* who now preside over our deliberations, began here your efforts for the abolition of imprisonment for debt; and a better work was never begun in the Capitol. Ever remembered and ever honored be that noble effort! You drew the attention of the public to the question, whether, in a civilized and Christian country, debt incurred without fraud, and remaining unpaid without fault, is a crime, and a crime fit to be punished by denying to the offender the enjoyment of the light of heaven, and shutting him up within four walls. Your own good sense, and that instinct of right feeling which often outruns sagacity, carried you at once to a result to which others were more slowly brought, but to which nearly all have at length been brought, by reason, reflection, and argument. Your movement led the way; it became an example, and has had a powerful effect on both sides of the Atlantic. Imprisonment for debt, or even arrest and hold-

* Hon. Richard M. Johnson, Vice-President of the United States.

Digitized by Google

ing to bail for mere debt, no longer exists in England; and former laws on the subject have been greatly modified and mitigated, as we all know, in our States. "Abolition of imprisonment for debt," your own words in the title of your own bill, has become the title of an act of Parliament.

Sir, I am glad of an occasion to pay you the tribute of my sincere respect for these your labors in the cause of humanity and enlightened policy. For these labors thousands of grateful hearts have thanked you; and other thousands of hearts, not yet full of joy for the accomplishment of their hopes, full, rather, at the present moment, of deep and distressing anxiety, have yet the pleasure to know that your advice, your counsel, and your influence will all be given in favor of what is intended for their relief in the bill before us.

Mr. President, let us atone for the omissions of the past by a prompt and efficient discharge of present duty. The demand for this measure is not partial or local. It comes to us, earnest and loud, from all classes and all quarters. The time is come when we must answer it to our own consciences, if we suffer longer delay or postponement. High hopes, high duties, and high responsibilities concentrate themselves on this measure and this moment. With a power to pass a bankrupt law, which no other legislature in the country possesses, with a power of giving relief to many, doing injustice to none, I again ask every man who hears me, if he can content himself without an honest attempt to exercise that power? We may think it would be better to leave the power with the States; but it was not left with the States; they have it not, and we cannot give it to them. It is in our hands, to be exercised by us, or to be for ever useless and lifeless. Under these circumstances, does not every man's heart tell him that he has a duty to discharge? If the final vote shall be given this day, and if that vote shall leave thousands of our fellow-citizens and their families, in hopeless and helpless distress, to everlasting subjection to irredeemable debt, can we go to our beds with satisfied consciences? Can we lay our heads upon our pillows, and, without self-reproach, supplicate the Almighty Mercy to forgive us our debts as we forgive our debtors? Sir, let us meet the unanimous wishes of the country, and proclaim relief to the unfortunate throughout the land. What should hinder? What should stay our hands from this good

Digitized by Google

work? Creditors do not oppose it; they apply for it; debtors solicit it, with an importunity, earnestness, and anxiety not to be described; the Constitution enjoins it; and all the considerations of justice, policy, and propriety, which are wrapped up in the phrase Public Duty, demand it, as I think, and demand it loudly and imperatively, at our hands. Sir, let us gratify the whole country, for once, with the joyous clang of chains, joyous because heard falling from the limbs of men. The wisest among those whom I address can desire nothing more beneficial than this measure, or more universally desired; and he who is youngest may not expect to live long enough to see a better opportunity of causing new pleasures and a happiness long untasted to spring up in the hearts of the poor and the humble. How many husbands and fathers are looking with hopes which they cannot suppress, and yet hardly dare to cherish, for the result of this debate! How many wives and mothers will pass sleepless and feverish nights, until they know whether they and their families shall be raised from poverty, despondency, and despair, and restored again to the circles of industrious, independent, and happy life!

Sir, let it be to the honor of Congress that, in these days of political strife and controversy, we have laid aside for once the sin that most easily besets us, and, with unanimity of counsel, and with singleness of heart and of purpose, have accomplished for our country one measure of unquestionable good.

Digitized by Google

A Uniform System of Bankruptcy*

Mr. President, — The commendable temper in which the discussion has been so far conducted leads me to hope that now, when we are in the midst of the difficulties of the question, the Senate will indulge me in a few remarks. That there are difficulties I freely acknowledge. The subject of bankruptcies is a difficult subject everywhere, and perhaps particularly difficult here, as one of the results of a division of legislative powers between Congress and the States. But these difficulties are not insurmountable, and their only influence, therefore, should be to stimulate our efforts, and to increase at once our caution and our zeal.

It seems to be agreed, by all the friends of any bankrupt bill, that there shall be a provision for voluntary bankruptcy. The question now is, whether there ought to be also a compulsory power, or a power on the part of creditors to subject their debtors, in certain cases, to the operation of the law.

It is well known that the bill introduced by me contained such a power, and I should still prefer to retain it. But I do not think this of so much importance as some other gentlemen, and I should cheerfully support a bill which did not contain it, if by so doing I could contribute to the success of the general measure. In truth, on this question, and on many others, my vote will be governed by a desire to make the bill acceptable to others.

Now, Sir, the argument for the compulsory clause is, that, without this power, the creditors have no security; that the bill

* A Speech delivered in the Senate of the United States, on the 5th of June, 1840, on Mr. Clay's Motion to strike out the Compulsory Part of the Bankrupt Bill.

Digitized by Google

is a one-sided measure, a measure for the benefit and relief of debtors only, quite regardless of the just rights of creditors. All this I deny. I maintain, on the contrary, not only that there is just security for the rights of creditors under the voluntary part of the bill, but that that part, of itself, and by itself, is of the highest value and importance to creditors. This proposition takes for granted, what I have no doubt will be found true, that persons in insolvent circumstances will generally become voluntary bankrupts. And, in the second place, I maintain that very little value is added to the security of creditors by the compulsory part of the bill. These are points on which I propose now particularly to address the Senate, and, with its patience, I hope to make them clear.

When I speak of creditors, I mean the class of creditors generally, or all who, in the course of business, give trust for merchandise, or other things sold, or for money loaned. When I speak of the creditors of insolvents, I mean the creditors, in the mass, of such persons as are actually and really insolvent, that is, unable to pay their debts, whether their insolvency be known and acknowledged or not. And to creditors, and the rights of creditors, in both these senses and uses of the word, I maintain that the provisions contained in the voluntary part of this bill are of great value.

The rights of creditors are the means which the laws furnish for the enforcement and collection of their debts. In the case of an insolvent debtor, the laws at present give to the creditor, among other things, a right to pursue and demand his future earnings. This right the present bill proposes to take away. The question is, therefore, whether, in taking away this right, the bill provides for the creditor any just equivalent.

I do not admit, indeed, that by a bankrupt law we might not take away some of the existing rights or remedies of creditors, if it should appear just and proper to do so, without providing any new right or remedy as an equivalent. The relation of debtor and creditor forms a general subject of legislation. The proper law-making power may act upon this relation, and alter and modify it, upon principles of general policy, justice, and utility, whenever it sees fit. But I am willing to occupy a narrower ground, and to undertake to show, that, by the provisions of this bill, we leave creditors in a better condition than

Digitized by Google

we found them; in other words, that, as a voluntary system alone, it is beneficial to creditors.

The law, it is proposed, shall last some few years, that Congress and the country may see what is its actual operation. It will act immediately on its passage; and this operation, as I maintain, will be favorable to creditors. In other words, the law will be useful to creditors, in reference to the creation of debts. It will, I insist, increase the probability that he who parts with his money or his merchandise on credit will be paid for his merchandise, or repaid his money. Sir, we live in a highly commercial country, and a highly commercial and enterprising age. The system of credit, which I hold to be very useful, and, indeed, essential to our general prosperity, may, no doubt, be carried to excess. There is such a thing as over-trading, and such a thing as false credit; and both these things are public evils. All admit this; and many think the evils so great, that they seem to be enemies to the credit system altogether. I am not one of these; but still I desire to keep credit within bounds, and to avoid over-trading.

Now, Sir, what is it that upholds so much false credit? What is it that enables men to extend their transactions so far beyond their capital? What is it that enables them, also, to go on, often for a long time, after they become really insolvent? It is the practice of indorsement and suretyship, a practice, I venture to say, more extensive in the United States than in any other country. Men get trust upon the strength of other men's names. I do not speak of the discount of notes and bills taken in the common operations of sale and purchase, but I speak of pure accommodation, of the discount of paper representing no transaction of sale or purchase, but made for borrowing money merely, and indorsed for the sole accommodation of the borrower. That great excesses have been committed in operations of this kind, no man who has attended to the transactions of trade can doubt; nor can any one doubt that great evils arise from this source. Indorsement and suretyship, therefore, are the means by which excessive and false credit is upheld. And how is this indorsement obtained? This leads us one step farther in the inquiry. How is it that persons, continuing to carry on business after they are really insolvent, and are suspected, if not known to be so, can procure others to indorse their paper? Sir,

Digitized by Google

we all know how it is. It is by promising to secure indorsers at all events. It is by giving an assurance that, if the party stops payment, a preference shall be made, and the indorsers shall be favored creditors. Hence it is quite general, perhaps universal, that, when an insolvent assigns his property for the benefit of his creditors, he classifies his creditors, and puts indorsers into the first class. This has become a sort of law of honor. A man that disregards it is, in some measure, disgraced. We hear daily of honorary debts, and we hear reproaches against those who, being insolvent, have yet pushed on, in the hope of retrieving their affairs, until, when failure comes, and come it does, sooner or later, they have not enough left to discharge these honorary obligations.

Now, at the bottom of all this is preference. The preference of one creditor to another, both debts being honest, is allowed by the general rules of law, but is not allowed by bankrupt laws. And this right of preference is the foundation on which the structure rests. On the legal right or power of preference lies the promise of preference. On the promise of preference lies indorsement. On indorsement lies extensive and false credit. On excessive and false credit lies over-trading. This, Sir, is the regular stratification. If we strike out preference, we shall knock away the foundation-stone. And this bill will strike it out.

If this bill shall pass, every indorser who shall not take previous security will see that, in case of failure, he can no longer be protected or preferred, but must come in for his share, and his share only, with other creditors. And this is right. For one, I have always thought that, if any difference were to be made, indorsers should be paid last, because they come in as volunteers; they profess to run a risk. They are not giving credit in the common way, as other persons do, who sell on trust, in the ordinary way of business, and in order to earn their livelihood; but they assume a voluntary responsibility. And why should they be preferred to the grocer, the tailor, or the butcher, who has only dealt in the common way of his trade, and has not volunteered to give any trust or credit whatever? Well, Sir, will not indorsement stay its hand when this bill shall have taken away all power of preference? Will not men hesitate, more than they now do, about lending their names, when they find that, in case

Digitized by Google

of failure, they must come in for neighbor's fare with all other creditors? I think they will.

And, Sir, if there be less of indorsement, there will be less of fictitious credit, and less of over-trading. Every man's business will be brought down so much the nearer to his own property, his own capital, and his own means. And if every trading man's business be brought down to some nearer proportion to his own capital and his own means, does not this diminish the probability of his failure? Certainly it does; and therefore whoever deals with him, and trusts him, is not so likely to lose his debt. There will be more general security in giving credits. And therefore I say, that, if you take away the power and practice of preference, you affect, to some extent, false credit and over-trading; and by these means you give a security to the creditor, even in the creation of his debt; and this is one advantage, to the whole class of creditors, to be expected from this bill. It is a general advantage, and its precise amount cannot be stated; but it is a clear advantage nevertheless.

But there is a second, and a still greater advantage. Mr. President, allow me to ask, What is that feature, the capital feature, which we most often see in the insolvencies which take place among the trading classes? What is that which there is the more frequent occasion to regret and to reprehend? Is it not that the party has gone on too long? Is it not that, after he knew himself to be really insolvent, that is, after he knew he had not property enough left to pay his debts, instead of stopping, and winding up his concerns, he has ventured still deeper, and made his ultimate case thereby still more desperate? Under the present state of law, this happens quite too often. I am afraid it would be found, on inquiry, that failures are generally worse in this country than elsewhere; that is to say, that generally the amount of assets is less in proportion to the amount of debts. And, in my opinion, the present state of the law encourages and produces this result. For, Sir, let me ask, What will a man naturally do who has been unfortunate, and has sustained such losses as to bring his property below his debts, while this is known to himself, and not known to others? If he stops and surrenders, however honestly and fairly, he cannot be sure of a discharge, and the unpaid balance may keep him a pauper for life. On the other hand, he sees that another voy-

Digitized by Google

age, another speculation, some new turn of fortune, may possibly relieve him, and bring him out a man of property. On one side, poverty for life is his only prospect, and only destiny, so far at least as the law allows him any ground of hope; and on the other, there is some chance of escape. Now, Sir, I will ask any sensible man, if a state of law could be devised more likely to encourage headlong enterprise and rash speculation. Can you place a man in a condition where he will be more likely to throw himself upon desperate chances, and to plunge deeper and deeper?

We are not without experience on this point, and much instruction may be gathered from one memorable instance. The great fire in New York is supposed to have destroyed property to the amount of twenty or twenty-five millions of dollars, in houses, warehouses, and merchandise. But nobody failed. This is a fact full of admonition. I ask attention to it. Nobody failed, notwithstanding this immense loss of property; and what was the reason? No one doubts that hundreds were rendered deeply insolvent by this so extensive calamity. Why, then, did they not stop? The answer is, that the extent of their losses was, in many cases, known only to themselves, and they concealed their own true condition. And they had strong motives for so doing. If they announced themselves insolvent, and stopped, nothing was before them and their families, for their whole lives, but poverty and distress. On the other hand, there was a hope that, if they could maintain their credit, they might, by extreme exertion and extreme good-fortune, extricate themselves. On the strength of that hope, slight as it was, they buoyed themselves up, and tried to stem the current which was carrying them, notwithstanding all their struggles, to utter and desperate bankruptcy. They paid exorbitant interest for money; they suffered themselves to be jewed in every dark alley in the city; they sacrificed every thing to maintain their credit, and in the end, when every thing else was gone, credit went also. And when they finally failed, where was the fund for dividends to creditors? Why, Sir, it had gone to the pocket of the capitalist; it had been devoured by the voracity of usury. I know of one instance in which a merchant paid more than fifty thousand dollars extra and unlawful interest, for the purpose of upholding his credit, and failed after all. And there are well-authenticated

Digitized by Google

cases of payment of still larger sums. Boundless extras and gross exorbitancy were thus suffered to eat up what belonged to creditors.

Now, Sir, would it not have been better for all parties, and for the public, that these unfortunate persons should have stopped payment the morning after the fire, assigned all that was left of their property, and received a discharge? And this, be assured, many of them would have done, if the law had provided that by so doing they should obtain that discharge. But there was no such legal provision; they had no hope on that side, but from the consent of *all* their creditors, and they believed that *all* would not consent; and therefore there was no way left to them but to keep on, wading into deeper water at every step, and stopping at last with nothing to divide except among indorsers.

Mr. President, we hear it frequently said, that honest debtors may always obtain discharges from their creditors upon an honest assignment of their effects. This is the language of the memorial of the Board of Trade, and this is the language, especially, of the letter to the honorable member from New York, which has been read. Sir, such is not my opinion, nor the fruit of my experience. I believe that creditors are generally humane and just; but there will always, or often, be some who are selfish, unjust, or indifferent. There will be some who will not compound. The man, therefore, who would stop, since he knows he is insolvent, if he could be sure of a discharge, cannot be sure of it. He may be as honest as possible; he may strip himself of the last farthing; but yet he cannot promise himself any release. It is notorious that some creditors will and do hold on; and as to the debtor, this is as decisive as if all did so. Now, Sir, this bill proposes an object to a man whose circumstances have become insolvent, and makes that object sure. It tells him, by way of inducing him to stop in season, and before he has wasted his property, that by assigning it, and acting honestly in all things, he shall have a discharge; that no unreasonable creditor shall be able to prevent it; and with this certainty before him he will stop in season, or, at least, he will be much more likely to stop in season than he is at present.

This, then, Sir, is the second benefit which this bill confers on creditors. And who will deny that it is a clear and a great

Digitized by Google

benefit? It holds out a strong inducement to debtors to stop in season, and to distribute their property honestly, while they have yet property to distribute, and before they have wasted it all in useless sacrifices to retrieve their affairs.

But there is a third benefit which this bill confers on creditors. It takes away the power and the motive of concealment. Under the present state of things, the motives of an insolvent man lead in the opposite direction of his duties. Every thing is brought to bear against his honesty and integrity. He has every temptation to conceal his property; and there are many ways in which he may conceal it. If he surrenders all, he cannot be discharged, and therefore will be in no condition to earn any thing more. He may, therefore, not choose to surrender, and may set his creditors at defiance. I have heard of an instance in which a man failed for one hundred and fifty thousand dollars. He showed assets to the amount of eighty thousand, and there was no reason to suppose that he had any more, or had acted dishonestly in any way. He offered to give up all for a discharge; but while most of his creditors were willing to discharge him on such a surrender, some were not. A year afterwards he renewed his offer of giving up all, but his property had by this time become diminished by ten thousand dollars, so that he had but seventy thousand to offer; and the obstinate creditors of last year were now willing to take what was then offered, but would not take less; and so the process of offer and refusal went on; and the last I heard of the case, this proceeding was likely to result in the creditors' getting nothing, and the debtor's becoming a beggar. If there be not many cases exactly like this, or quite so strong in all their circumstances, there are still very many which much resemble it; and this bill will put an end to them all.

Sir, the great motive by which the debtor is to be brought to act honestly and fairly is his hope of a discharge. This is to him every thing. Hardly any earthly object, in his view, can be greater It is this which is to reinstate him in a condition of effort and action. Creditors can obtain a benefit, by means of this, far superior to any good which they can ever get by holding on to his future earnings. Generally, this last right is good for nothing to the mass of creditors, though sometimes an individual may profit by it. In some cases, it is true, where the

Digitized by Google

amount of debt is small, the bankrupt will struggle hard to earn the means of payment, that he may afterwards work for himself. But if the amount be large, he will make no such effort. He will not work altogether for his creditors. Not only will he not do that, but, as I have already said, he is under strong temptation to retain and conceal what he already possesses. I need not say of what evil consequence all this is. I need not say what ill-will naturally grows up between debtors and creditors standing in this relation. The creditor thinks his debtor unjust and roguish; the debtor regards his creditor as remorseless and cruel; and mutual reproaches and deep bitterness of feeling are often the result. How much better, Sir, every way, that the law, by its timely interference, should give the debtor's property to whom it belongs, and set him free to begin a new career of industry and usefulness!

And, in the fourth place, Sir, this bill gives the creditors an *equal* distribution of the debtor's effects. In the present state of things, a bankrupt may pay one creditor all, and another nothing; and he who gets nothing may, perhaps, fail himself, when, if he could have received his just proportion, he might have been saved. The great interest of the mass of creditors is, that the debtor's effects shall be *equally* divided among them all. At present, there is no security for such equal division, and this bill proposes to give such security. And I repeat, that, if any thing ever comes of the power of a creditor to hold on upon his debt, in the hope of getting something out of the future earnings of a notoriously insolvent debtor, it is usually not the mass of creditors, but only some one of them, who gets any thing; and that one, very likely, may be he who deserves least.

These, Mr. President, are the securities, the new securities, the important securities, which this bill furnishes to the creditors. If there be nothing in them, let that be shown; but until it is shown, let it not be said that there is nothing in this bill for the creditors' benefit.

And, Mr. President, these provisions belong to the voluntary, as well as the involuntary, parts of the bill. The real reciprocity, the real equivalent, must be looked for in the provisions made for conducting the proceedings, and not in the source in which the proceedings originate. Suppose creditors to have ever so full a power of declaring their debtors bankrupts; this would

Digitized by Google

not avail them, unless proper provision were made for a full assignment and fair distribution of the property. On the other hand, if such provision be made, the creditor is secured, although the proceedings originate with the debtor himself. It may be wise, or it may be unwise, to retain the coercive clauses; but whether retained or not, they do not constitute the true equivalent or reciprocal benefit of the creditor.

The real state of the case stands thus. The benefit of a debtor consists in obtaining a discharge; this he shall have, but, in order to obtain it, he shall give the creditors the benefit of a full and honest surrender of all his property; he shall show, if a merchant, that he has kept proper and regular books of account; it must appear that there has been no false swearing on his part, or the concealment of any part of his property; that he has not admitted any false or fictitious debt against his estate, that he has not applied any trust money to his own use; and that he has not paid any debt by way of preferring one creditor to another, in contemplation of bankruptcy. And the Senate, if they see fit, may insert that the consent of creditors shall be necessary to his discharge, though, for one, I should never agree to that, without reserving a right to the debtor to summon dissenting creditors to appear before the proper tribunal, and show some just reason for withholding a discharge.

I have now, Sir, gone through with all that I proposed to say upon the voluntary part of this bill. My undertaking was, to show that that part of the bill does, by itself, and of and in itself alone, contain provisions of the highest importance to creditors and the security of creditors; and, on the various points which I have noticed, I am ready to meet any gentleman who may choose to contest the matter. The opinions which I have expressed I hold with confidence, and am willing to defend them, and to submit them to the judgment of all men of experience.

My second general proposition is, that, whether it were advisable, on the whole, or not, to retain the compulsory part, yet that part does not give any important addition to the security of creditors; and that therefore it is not of great consequence whether it be retained or not.

In the first place, let us remember that the form of proceeding is the same, after its commencement, whether it be begun by the

Digitized by Google

debtor or his creditor. If there be any benefit to the creditor at all in the compulsory part, it must be in the mere power of declaring his debtor a bankrupt under certain circumstances, and of causing him, willing or unwilling, to go through the bankrupt process. Now, the difficulty is, that, though this power might sometimes be beneficial to the creditor, yet it is next to impossible so to describe the circumstances which shall constitute a just occasion for the exercise of the power, as not to leave it still, in a great measure, a voluntary matter with the debtor when he will subject himself to the provisions of the law. This has been found the difficulty in all systems; and most bankruptcies are, therefore, now substantially voluntary. Those acts which are in this bill called acts of bankruptcy, and which, if committed, shall enable a creditor to sue out a commission against his debtor, are nearly all of them voluntary acts, which the debtor may perform or not at his pleasure, and which, of course, he will not perform, if he wishes to avoid the process of bankruptcy.

These acts, as stated in the bill, are, secretly departing from the State with intent to defraud his creditors; fraudulently procuring himself to be arrested, or his lands and goods attached or taken in execution; removing or concealing his goods to prevent their being levied upon or taken by legal process; making any fraudulent conveyance of his lands or goods; lying in jail twenty days for want of bail, or escaping from jail, or not giving security according to law when his lands or effects shall be attached by process.

An insolvent may avoid the commission of most of these acts if he chooses, especially as there are now few instances of imprisonment for debt. The acts of bankruptcy, according to the British statute, are very much like those in this bill. But a trader may declare himself insolvent, and thereupon a commission may issue against him; and that is supposed to be now the common course. Creditors will seldom, if ever, use this power. A creditor desirous of proceeding against his debtor for payment or security, naturally acts for himself alone. He arrests his person, attaches his property, if the law allows that to be done, or gets security for his own debt the best way he can, leaving others to look out for themselves. Concert among creditors, in such cases, is not necessary, and is uncommon; and a single creditor, acting for himself only, is much more likely to

Digitized by Google

take other means for the security of his debt than that of putting his debtor into bankruptcy. Nevertheless, I admit there are possible cases in which the power might be useful. I admit it would be well if creditors could sometimes stop the career of their debtors; and if the honorable member from New York,* or any other gentleman, can frame a clause for that purpose, at once efficient and safe, I shall vote for it. Even as these clauses now stand, I should prefer to have them in the bill; my original proposition having been, as is well known, that there should be both compulsory and voluntary bankruptcy; and I vote now to strike the provision out, only because others, I find, object to it, and because I do not think it of any great importance.

I proceed, Sir, to take some notice of the remarks of the honorable member from New York; and what I have first to say is, that his speech appeared to me to be a speech against the whole bill, rather than a speech in favor of retaining the compulsory clause. He pointed out the evils that might arise from the voluntary part of the bill; but every one of them might arise, too, under the other part. He spoke of the hardship to creditors in New York; that they should be obliged to take notice of the insolvency of their debtors in the Western States, and to go thither to prove their debts, or resist the discharge. But this hardship, certainly, is no greater when the Western debtor declares himself bankrupt, than when he commits an act of bankruptcy, on which some Western creditor sues out a commission against him.

All the other inconveniences, dangers, or hardships to creditors, which the honorable gentleman enumerated, were, in like manner, as far as I recollect, as likely to arise when a creditor puts the debtor into bankruptcy, as when he puts himself in. The gentleman's argument, therefore, is an argument against the whole bill. He thinks Eastern creditors of Western debtors will be endangered, because State legislatures, in States where debtors live, as well as commissioners, assignees, and so forth, will have all their sympathies on the side of the debtors. Why, Sir, State legislatures will have nothing to do with the matter, under this bill; and as to the rest, how is it now? Are not creditors now in the power of local administrations affected, in

* Mr. Tallmadge.

Digitized by Google

all respects, by these same sympathies? Are there no instances, indeed, and is there no danger, of laws staying process, embarrassing remedies, or otherwise interrupting the regular course of legal collection? For my own part, I cannot doubt that a New York merchant, learning that his debtor in the South or West is in insolvent or failing circumstances, would rather that his affairs should be settled in bankruptcy, in the courts of the United States, than that his debtor should settle them himself, paying whom he pleased, and disposing of his property according to his own will, or under the administration of the insolvent laws of the State.

The gentleman seemed to fear that, if Western traders may make themselves bankrupts, New York merchants will be shy of them, and that Western credit will be impaired or checked. Perhaps there would be no great harm if this should be so. A little more caution might not be unprofitable; but the answer to all such suggestions is, that the bill applies only to cases of insolvents, actual, real insolvents; and when traders are actually insolvent, the sooner it is known the better, nine times out of ten. Nor do I feel any alarm for our mercantile credit abroad, which has awakened the fears of the gentleman. What can foreign merchants suppose better for them than such an administration of the effects of debtors here, as that, if there be foreign creditors, they shall be sure of a just and equal dividend, without preference either to creditors at home or indorsers? It is not long since, in some of the States, (I hope it is not so anywhere now,) that creditors within the State had preference over creditors out of it. And, if we look to other countries, do we find that well-administered systems of bankruptcy enfeeble or impair mercantile credit? Is it so in regard to England, or to France?

The honorable member feels alarm, too, lest the banks should be great sufferers under the operation of this bill. He is apprehensive that, if it shall pass, very many debtors of the banks will become bankrupts, pay other creditors more or less, and pay the banks nothing. Sir, this is not according to my observation. Bank debts are usually preferred debts, because they are debts secured by indorsement. But, by mentioning the case of the banks, the gentleman has suggested ideas which I have long entertained, and which I am glad of this opportunity to express briefly, though I shall not dwell on them.

Digitized by Google

Sir, a great part of the credit of the country is bank credit. A great part of all indorsement and suretyship is bank indorsement and bank suretyship. I do not speak particularly of the great cities; I speak of the country generally. Now, indorsement, as I have already said, rests on the idea of preference. And if we take away preference, do we not diminish bank indorsement and bank accommodation? And do we not in this way act directly on the quantity of bank paper issued for circulation? Do we not keep the issues of paper nearer to the real wants of society? This view of the case might be much pressed and amplified. There is much in it, if I am not mistaken. For the present, I only suggest it; but he who shall consider the subject longest and deepest will be most thoroughly convinced that in this respect, as well as others, the abolition of preference to indorsers will act beneficially to the public.

The immediate motion before the Senate, Mr. President, does not justify a further extension of my observations on this part of the case. My object has been to prove that this bill is not one-sided, is not a bill for debtors only, but is what it ought to be, a bill making just, honest, and reasonable provisions for the distribution of the effects of insolvents among their creditors; and that the voluntary part of the bill alone secures all these principal objects, because, in the great and overruling motives of obtaining a discharge, it holds out an inducement to debtors who know themselves to be insolvent to stop, to stop seasonably, to assign honestly, and to conform in good faith to all the provisions intended for the security of their debtors.

Digitized by Google

State of the Finances in 1840*

A MOTION was submitted in the Senate, on the 14th of December, 1840, to refer so much of the President's message at the beginning of the session as relates to the finances to the Standing Committee on Finance. This question coming up for discussion on the 16th, Mr. Webster addressed the Senate substantially as follows: —

MR. PRESIDENT, — It has not been without great reluctance that I have risen to offer any remarks on the message of the President, especially at this early period of the session. I have no wish to cause, or to witness, a prolonged, and angry, and exciting discussion on the topics it contains. The message is, mainly, devoted to an elaborate and plausible defence of the course of the existing administration; it dwells on the subjects which have been so long discussed among us; on banks and banking, on the excess of commerce and speculation, on the State debts, and the dangers arising from them, on the Sub-treasury, as it has been called, or the Independent Treasury, as others have denominated it. I propose now to deal with none of these points. So far as they may be supposed to affect the merits or character of the administration, they have, as I understand it, been passed upon by the country; and I have no disposition to reargue any of them. Nor do I wish to enter upon an inquiry as to what, in relation to all these things, is supposed to have been approved or disapproved by the people of the United States, by their decision in the late election. It appears, however, thus far, to be the disposition of the nation to change the administration of the government. All I propose at this

* Remarks upon that part of the President's Message which relates to the Revenue and Finances, delivered in the Senate of the United States, on the 16th and 17th of December, 1840.

Digitized by Google

time to do is, to present some remarks on the subject of the finances, speaking on the present state of things only, without recurring to the past, or speculating as to the future. Yet I suppose that some proper forecast, some disposition to provide for what is before us, naturally mixes itself up, in a greater or less degree, with all inquiries of this sort.

In this view, I shall submit a few thoughts upon the message of the President; but I deem it necessary to preface what I shall say with one or two preliminary remarks.

And, first, I will say a word or two on the question, whether or not unfounded or erroneous impressions are communicated to the people by that document, in several respects. In this point of view I first notice what the President says on the eighth page. He there represents it as the great distinctive principle, the grand difference in the characters of our public men, that of one class of them it has been the constant object to create and to maintain a public debt, and of another to prevent and to discharge it. This I consider as an unfounded imputation on those who have conducted the government of this country. The President says, "I have deemed this brief summary of our fiscal affairs necessary to the due performance of a duty specially enjoined upon me by the Constitution. It will serve also to illustrate more fully the principles by which I have been guided in reference to two contested points in our public policy, which were earliest in their development, and have been more important in their consequences than any that have arisen under our system of government; I allude to a national debt and a national bank." About a national bank I have nothing at present to say; but here it is officially announced to us, that it has been a great contested question in the country, whether there shall or shall not be a national debt, as if there were public men who wished a national debt, to be created and perpetuated for its own sake! Now I submit it to the Senate, whether there has ever existed in the country any party, at any time, which avowed itself in favor of a national debt, *per se*, as a thing desirable? Does the history of the past debts contracted by the government lay the least foundation for any such assertion? The first national debt we have had was the loan negotiated in Holland, by John Adams. None, I presume, ever doubted the policy of such a loan, in the then existing circumstances of the country.

Digitized by Google

Then there came the debt contracted for the pay of the Revolutionary army, by the Continental Congress, or rather by the country through that Congress. Next were the debts incurred during the war, by the States, for the purpose of carrying on the war. Provision was made for discharging these debts as the cost of our Revolution; can any body object to a debt like this? Of the same character were the loans made by government to carry on the late war with Great Britain. These are the principal national debts we have ever contracted, and I cannot but think it singularly unfortunate that what looks so much like an imputation on those who authorized these loans should come from the head of an administration which, so far as I know, *is the first that has ever commenced a national debt in a time of profound peace.*

And now to proceed to the actual state of the finances. The message, though it does not call the obligations of the government a national debt, but, on the contrary, speaks in the strongest terms against a national debt, yet admits that there are treasury-notes outstanding, and bearing interest, to the amount of four and a half millions; and I see, connected with this, other important and leading facts, very necessary to be considered by those who would look out beforehand that they may provide for the future.

Of these, the first in importance is, that the expenditures of the government, during the term of the present administration, have greatly exceeded its income. I shall not now argue the question whether these expenditures have been reasonable or unreasonable, necessary or unnecessary. I am looking at the facts in a financial view, purely; and I say that during the last four years *the public expenditure has exceeded the public income at the rate of* SEVEN MILLIONS OF DOLLARS PER ANNUM. This is easily demonstrated.

At the commencement of the first year of this presidential term, in January, 1837, there was in the treasury a balance of six millions of dollars, which was reserved from distribution by what has usually been called the Deposit Act. The intention of Congress was to reserve five millions only; but, in consequence of an uncertainty which attended the mode of effecting this result, the Secretary wishing to be in his calculations, at least, on the safe side, it turned out that the sum actually re-

Digitized by Google

served was six millions. Here, then, was this amount in the treasury on the 1st of January, 1837. Events occurred during that year which induced Congress to modify the deposit act, so as to retain in the treasury the fourth instalment of the sum to be deposited with the States, which amounted to nine millions. I find, further, from the communications of the Secretary of the Treasury now submitted to the Senate, that, for the stock belonging to the public in the Bank of the United States, for which bonds had been given to the treasury by the Bank of the United States of Pennsylvania, which bonds are now paid, there have been received eight millions. Now, Sir, these are all items of a preëxisting fund, no part of which has accrued since January, 1837.

To these I may add the outstanding treasury-notes running on interest (four and a half millions), and the whole forms an aggregate of *twenty-seven and a half millions of dollars*, in addition to the current revenue, which have been expended in *three and a half* or four years, excepting, of course, what may remain in the treasury at the end of that term. Here, then, has the government been expending money at the rate of nearly eight millions per annum beyond its income. What state of things is that? Suppose it should go on. Does not every man see that we have a vast debt immediately before us?

But is this all? I am inclined to think that, in one respect at least, it is not all. The treasury, I think, has not duly distinguished, in reference to one important branch of its administration, between treasury funds proper and a trust fund, set apart by treaty stipulation, to be invested for the benefit of certain Indian tribes. I say the treasury has taken, as belonging to the government, that which properly belongs to a trust fund, which the government engaged to invest in permanent stocks for the benefit of certain Indian tribes. This makes it necessary to look a little into these trust funds. By our treaty with the Chickasaws, the proceeds of the sales of the lands ceded to the United States by that tribe were to be invested in permanent stocks, for the use of the members of that tribe. At the date of the last communication which I find from the treasury, the amount received on these sales was $2,498,000.06. Bonds had been purchased to the amount of $1,994,141.03; but as some of these bonds were purchased at rates above par, the sums vested

Digitized by Google

in them amounted to $2,028,678.54. This would leave a balance of $369,000 uninvested at that time; and the Secretary informs us that the portion of it which had been received from the land offices had been "mixed up in the general fund." Here, then, is one item of trust money, money not our own, which has been mixed up with our own money, and received as part of the available funds of the treasury. The stocks purchased for the Chickasaws appear to be as follows: —

Number of Bonds.	Interest, where payable.	Interest, when payable.	Times redeemable.	Rate per cent.	Am't of each.	Total.
125 Ten.	Philadelphia, . . .	1st January and July,	1848	5	$1,000	$125,000.00
125 do.	do. . .	do. do.	1853	5	. .	125,000.00
65 do.	Treasurer's office, Tenn.,	25th January and July,	1861	5½	. .	65,000.00
1 do.	do. do. do.	do. do.	. .	5½	. .	1,666.66
65 Ala.	Phœnix Bank, N. Y., .	1st Monday May and Nov.	1862	5	1,000	65,000.00
250 do.	do. do. do. .	do. do.	1865	5	. .	250,000.00
500 do.	Union Bank, N. Orleans,	1st Monday June and Dec.	. .	5	. .	500,000.00
500 do.	Commercial Bank, do.	do. do.	1866	5	. .	500,000.00
161 Ind.	New York, . . .	1st January and 1st July,	1857	5	. .	161,000.00
41 do.	. . . . .	. . . . .	. .	5	. .	41,000.00
3 Ohio	. . . . .	. . . . .	1856	6	35,000 15,000 50,000	100,000.00
1 Md.	Baltimore, . . .	8th February and August,	Ad libitum	5	. .	30,091.80
1 do.	do. . . .	do. do.	1849	5	. .	13,000.00
1 do.	do. . . .	do. do.	1844	5	. .	11,233.00
1 do.	do. . .	1st January and quarterly,	1870	6	. .	6,149.57
	Amount of stock for Chickasaws, . . .				. .	$1,994,141.03

As a matter of account and book-keeping, this might be thought correct, or it might not; but I think it would have been better to keep a separate account for funds thus held in trust, as every private individual does, who is made a trustee for the interests of others. If the facts are as I have gathered from the report submitted to Congress, here are three or four hundred thousand dollars of the trust fund not invested, and which remain yet to be invested for the benefit of these Indian tribes. As to the rates at which these bonds were purchased, I find it stated that one "lot" of Alabama bonds was taken on the 31st of March, 1836, at 4⅓ per cent. premium; others, immediately after, at 4; others, in May, at 3½; and others, in March, 1837, at 1 per cent. off. Tennessee bonds were purchased at par; Ohio bonds at 11 7/10 advance; part of the Maryland bonds at 3 per cent. off, part at 1 per cent. off, and part at 14 4/10 advance.

So much for the investment under the treaty with the Chickasaws. But we have other treaties presenting a more important case. We have treaties with eight tribes of Indians, by which the United States stipulated to invest the amounts agreed to be

Digitized by Google

paid for the lands ceded by them in State stocks. Take, for example, the stipulation in the treaty with the Sioux of the Mississippi. The article of the treaty is in these words: —

"Art. 2. In consideration of the cession contained in the preceding article, the United States agree to the following stipulations on their part: First, to invest the sum of $300,000 in such safe and profitable State stocks as the President may direct, and to pay to the chiefs and braves as aforesaid, annually, for ever, an income of not less than five per cent. thereon."

The stipulations in the other treaties are substantially the same. The whole amount thus agreed to be invested for the eight tribes, by treaties mostly entered into in the years 1837 and 1838, is $2,580,100. This appears from the following statement, which I find in the documents.

Statement exhibiting the Amount of Interest appropriated by Congress to pay the following Tribes, in lieu of investing the Sums, provided by the Treaties, in Stocks.

Names of Tribes.	Amount provided by Treaties to be invested in safe Stocks.	Annual Interest appropriated by Congress.	Treaties.
Ottawas and Chippewas,	$200,000	$12,000	Resolution of Senate.
Osages, ...	69,120	3,456	Resolution of Senate, Jan. 19, 1838.
Delawares, . .	46,080	2,304	Treaty, 1832.
Sioux of Mississippi, .	300,000	15,000	Treaty, Sept. 29, 1837.
Sacs and Foxes of Mississippi,	200,000	10,000	Treaty, Oct. 21, 1837.
Sacs and Foxes of Missouri,	157,400	7,870	Treaty, Oct. 21, 1837.
Winnebagoes, ...	1,100,000	55,000	Treaty, Nov. 1, 1837.
Creeks, ...	350,000	17,500	Treaty, Nov. 23, 1838.
Iowas, ...	157,500	7,875	Treaty, 1837.
	$2,580,100	$131,005	

Now, Sir, not one dollar of all this has been invested. The very statement which I have quoted shows this. The statement declares, that, instead of investing this large sum, according to contract, the United States pays interest upon it, as upon a debt.

We are indebted, therefore, to these Indians in the whole amount we agreed to pay for these lands, which have been transferred to us, surveyed, put in market, and large portions of them, I suppose, before this, been disposed of. We promised to invest the proceeds for their benefit, which has not been

Digitized by Google

done. Instead of asking for money wherewith to purchase these stocks, the treasury has been contented to ask for the amount of interest only, holding the United States debtors to the Indians, whereby a debt, to all intents and purposes, to the whole amount of this trust fund, is created, and is to be added to the amount of debt due by the government. I do not say it must be paid to-day, or to-morrow; but it is an outstanding debt. The government is under an undischarged treaty obligation to raise the money, and with it to buy stock for the benefit of the Indians.

In addition to all this, there will be found, I have no doubt, a heavy amount of outstanding debts due for public works, expenses growing out of army operations in Florida, indemnities for Indian spoliations in the South and West, and for a variety of other objects.

Now, Sir, I agree with all that is said in the message as to the great impolicy, in time of peace, of commencing a public debt; but it seems to me rather extraordinary and inappropriate in the President to admonish others against such a measure, with all these facts immediately before him. In principle, there is no difference, as to the creation of a public debt, whether it be by issuing stock, redeemable after a certain period, or by issuing treasury-notes, which are renewable, and constantly renewed; and if there be any difference in point of expediency, none can entertain any great doubt which of the two forms is best. Treasury-notes are certainly not the cheaper of the two.

Now, we find the existence of this public debt as early as the existence of the present administration itself. It began at the extra session, in September, 1837. From the date of the first treasury-note bill, in October, 1837, there has been no moment in which the government has not been in debt for borrowed money. The Secretary says it is not expected that the treasury-notes now out can be paid off earlier than in March, 1842. In whatever soft words he chooses to clothe the matter, the sum and substance is this, that there must be a new issue of treasury-notes before the government can be freed from embarrassment.

I must confess that it seems to me that the scope and tendency of the remarks in the message are to produce an erroneous impression. Here is a series of very strong sentiments

Digitized by Google

against a public debt, against *beginning* a public debt, and all said in face of a debt already begun, existing now, and under such circumstances as to create the fear that it will turn out to be a very large one. We know that these various outstanding charges cannot, or at least will not, be brought together, and presented in one aggregate sum, for some months to come. Is it intended by this document to forestall public opinion, so as, when it shall appear that there is a public debt, to give to it a date posterior to the 4th of March next? I hope not. I do not impute such a design. So far, however, as I am concerned, I shall take special good care to prevent any such result. I shall certainly recommend that there be a new set of books opened; that there be what merchants call "a rest"; that what is collected prior to March, 1841, and what is expended prior to March, 1841, stand against each other; so that, if there shall appear a balance in favor of this administration, it may be stated; and if the result shall be that the administration is left in debt, let that debt appear, and let it be denominated "the debt of 1841," which it will be the duty of Congress, as such, to provide for.

In one or two other respects, the message is calculated to create quite an erroneous impression. On the fifth page, the President speaks on the subject of the treasury-notes in as mitigated a tone as possible, and tells us, first, that "this small amount still outstanding" is "composed of such as are not yet due." I suppose we all knew that. And then he adds that they are "less by twenty-three millions than the United States have on deposit with the States." I ask the Senate, and I would ask the President if I could, whether he means to recommend to Congress to withdraw the deposits now in the hands of the States, in order to discharge this debt on treasury-notes? Do the administration look to these deposits as a fund out of which to discharge any of the debts of the treasury? I find no recommendation of such a measure. Why, then, were these two things connected? There is nothing in the fact that the amount of treasury-notes is less by twenty-three millions than the amount deposited with the States, unless the President means to recommend that the latter sum shall be looked to as a means of discharging the former. Does he mean merely to inform Congress that twenty-three are less than twenty-eight? If not,

Digitized by Google

why are the two thus placed in juxtaposition, and their amounts compared?

The Secretary of the Treasury treats the matter in much the same way. He speaks of the deposits with the States as of funds in the treasury. Look at his report. In stating the resources of the treasury, he mentions the twenty-eight millions on deposit with the States. What can be the purpose of such a statement? When a Secretary of the Treasury presents to the world a statement of the means of his department, it is universally supposed that his statement is confined to what either exists in the treasury, or is likely to accrue under the operation of existing laws. But this deposit with the States is no more under the control of the treasury, than any other money in the country. He knows full well that an act of Congress is as necessary to his disposal of any part of that sum, as it is to augment the rate of duties at the custom-house. The treasury can no more use the deposits with the States, than it can lay a direct tax. What can be the purpose, the fair purpose, of presenting sums as funds in the treasury, when they are not in the treasury? Or what can be the fair purpose of referring to a fund as a means of payment, when it cannot be touched unless the President means to recommend to Congress to recall the deposits made with the States? That Congress can do, and so it can augment the rate of duties; but till it does, those deposits are no more means in the treasury than if they belonged to another nation. The day, I hope, will come, I have long desired it, when we shall see plain fact plainly stated; when the reports of our fiscal officers will deal less in guesses at the future, and will no longer use forms and phrases, I will not say which are designed to mislead or to mystify, but the result of which is to mislead the nation, by mystifying the subject.

I said that, though the honorable Secretary pretty clearly intimates that we must resort to a new issue of treasury-notes, yet the result of all is, that, if Congress wishes to avoid the necessity either of increasing the duties or of issuing new treasury-notes, he has a resource ready for it; namely, to reduce its appropriations below even his own estimates. This is much like what he told us last year; and yet, though we did reduce our appropriations within even his estimates, still the treasury is in want of money.

Digitized by Google

One other remark is suggested by what the President says to us on the sixth page of his message. He tells us that it is possible to avoid the "creation of a permanent debt by the general government," and then goes on to observe: "But, to accomplish so desirable an object, two things are indispensable; first, that the action of the federal government be kept within the bounds prescribed by its founders." Now, I did suppose that this duty of keeping the action of the federal government within the bounds of the Constitution was absolute; that it was not affected by times, circumstances, or condition, but was always peremptory and mandatory. What is the inference to be drawn from the President's language? If the treasury is empty, you must keep within the Constitution. And what if it is full? Are you to break its bounds? to transcend the Constitution? I have always thought we should neither be tempted to do this by an overflowing treasury, nor deterred by an empty one from taking such a course as the exigencies of the country might require in the discharge of our duties. The duty of keeping within our constitutional limits is an absolute duty, existing at all times and in all conditions of things. If the treasury be full to overflowing, we are still to undertake nothing, to expend money for nothing, which is not fairly within our power. And if the treasury be empty, and the public service demand expenditures, such as it is our province to make, we are to replenish the treasury.

There is also an important omission in the message, to which I would call the notice of the Senate and of the country. The President says the revenue has fallen off two and a half millions of dollars under two biennial reductions of the rate of duties at the custom-houses under the law of 1833. Be it so. But do we not all know that there is before us, within a year, a much greater "relinquishment" (if that is the term to be applied to it), and within a year and a half more another, and the last of these reductions? Do we not see, then, from the present existence of a large debt, and from this further reduction of duties, (that is, if nothing shall be done to change the law as it now stands,) that a case is presented which will call for the deliberate consideration of Congress, and that some effort will be required to relieve the country?

But here is no recommendation at all on the subject of reve-

Digitized by Google

nue. No increase is recommended of the duties on articles of luxury, such as wines and silks, nor any other way suggested of providing for the discharge of the existing debt. The result of the whole is, that the experience of the President has shown that the revenue of the country is not equal to its expenditure; that the government is spending seven millions a year beyond its income; and that we are in the process of running right into the jaws of debt. And yet there is not one practical recommendation as to the reduction of the debt, or its extinguishment; but the message contents itself with general and ardent recommendations not to create a debt.

I know not what will be done to meet the deficiency of the next quarter. I suppose the Secretary's recommendation to issue treasury-notes will be followed. I should myself have greatly preferred a tax on wines and silks. It is obvious that, if this or something like it is not done, the time approaches, and is not far off, when provision must be made by another Congress.

I have thus stated my views of this portion of the message. I think it leads to what may render an extra session necessary, a result I greatly deprecate on many accounts, especially on account of the great expenditure with which it will unavoidably be attended. I hope, therefore, that those who now have the power in their hands will make such reasonable and adequate provision for the public exigency as may render the occurrence of an extra session unnecessary.

Mr. Wright having on the 17th instant spoken in answer to Mr. Webster's remarks of the day before, Mr. Webster replied, to the following effect: —

I shall detain the Senate but a short time in answer to some of the honorable member's remarks, as he has really not met the argument which I had the honor yesterday to submit to the Senate. To begin with the subject of Indian treaties. The honorable member has said, that the fund arising from the sale of the Chickasaw lands has all been invested to within some forty or fifty thousand dollars. I founded what I said in relation to this fund on the returns furnished to the Senate, and, according to that document, the balance uninvested amounts to three hundred and sixty thousand dollars. I added, that I had heard

Digitized by Google

that ninety thousand dollars had been invested since the date of the returns. I made no complaint of the mode in which this fund has been invested, so far as it has been invested; and if the whole of it has been invested, so much the better. But in regard to the two and a half millions of the fund belonging to the Winnebagoes and other tribes, and which, according to the treaty, was to be invested for the benefit of those tribes, I ask of the Senate whether the gentleman from New York has fairly met the force of the argument advanced by me. I have not complained of the treaty, nor charged the administration with any extravagance or want of providence in entering into it. That is not the point. The point is, that this amount constitutes a *debt*, for the payment of which it is incumbent on the government to provide; and that, as such, it ought to be kept before the view of Congress, whereas it has been kept entirely out of sight. That is my point. The honorable member admits that it is a debt, but contends that it is not to be reckoned as a portion of the public national debt. If by this the honorable member means to say, that this amount forms no part of the debt arising from borrowed money, unquestionably he is right. But still it is a national debt; the nation owes this money; and it enters necessarily, as one important item or element, into a statement of the financial condition of the government.

The honorable member has asked, if this were so, why such a statement ought not, in like manner, to include the Indian annuities. They are included in effect. Does not the annual report from the department always state the amount of those annuities as part of the expenditures for which Congress is to provide? Are they not always in the estimates? So the member asks why the pensions are not to be included. The same answer might be made. The amount of that expenditure, also, is annually laid before Congress, and it is provided for as other demands on the government. I have not complained of this amount of two and a half millions of Indian debt; I have never opposed these treaties. All I have contended for is, that, as an amount to be provided for, it is as much a part of the public debt as if it consisted of borrowed money; it is a demand which Congress is bound to meet. In any general view, therefore, of the liabilities of the government, is there one

Digitized by Google

of those liabilities which could with more truth and justice be inserted than this?

I have said that I commend the argument of the President, in opposition to a national debt; and I should be quite unwilling to have it supposed that any thing I said could be wrested (I do not charge that it has been intentionally so wrested) to favor the idea of a public debt at all. But I must still insist that the language employed by the President on the eighth page of his message does refer to past political contests in this country, and does hold out the idea that, from the beginning of the government, in the political contests which have agitated the country, there have been some men or some parties who were in favor of the creation and continuance of a public debt, as part of their policy; and this I have denied. The idea in the message is not that there are certain great *interests* in the country which are always, from the nature of things, in favor of such a debt, on account of the advantages derivable from it to themselves, as the honorable member has argued to-day. If the President had stated this, as it has now been stated in the speech of the honorable member, nobody could have taken any exception to it. But that is not the language of the message. The point of objection is, that the message charges this fondness for a national debt upon some one of the parties which have engaged in the past political strifes of the country, and has represented it as a broad and general ground of distinction between parties, that one was the advocate of a national debt, as of itself a good, and the other the opponent of the existence of a debt. This I regard as an imputation wholly unfounded; and it is on this ground that I have objected to that portion of the executive communication. No facts in our history warrant the allegation. It is mere assumption.

When up before, I omitted one important item, in stating the amount of expenditures under the existing administration beyond the accruing revenue, which ought to be brought to the public view. If I am in error, the honorable member will put me right. In March, 1836, a law passed, postponing the payment of certain revenue bonds, in consequence of the great fire in New York, for three, four, and five years. The great mass of these postponed bonds have fallen due, and been received into the treasury, since the present administration came into power. The to-

Digitized by Google

tal amount is about six millions of dollars. This being so, the whole amount of expenditure over and above the accruing revenue amounts to thirty-four millions, or thereabouts, and thus gives an annual excess of expenditures over receipts of *eight and a half millions* a year; and I insist again, looking at the matter in a purely financial view, looking at the comparative proportion of liabilities and of means to discharge them, that when the President finds an excess of the former continuing for four years, at the rate of *eight and a half millions per annum*, and does not particularize any one branch of expenditure in which a considerable practical reduction can be made, (unless so far as it may take place in the pension list, by the gradual decease of the pensioners,) and when he proposes no new measure as a means of replenishing the exhausted treasury, the question for Congress and for the nation to consider is, whether this is a safe course to be pursued in relation to our fiscal concerns. Is it wise, provident, and statesmanlike?

There is another point in which the honorable member from New York has entirely misapprehended me. He says that I appeared to desire to avoid, as a critical and delicate subject, the question of the tariff; or rather, had complained that this administration had not taken it up. Now, I did not say a word about the tariff, further than to state that another great reduction was immediately approaching in the rate of duties, of which the message takes no notice whatever; though it does not fail to refer to two reductions which have heretofore taken place. What I said on the subject of imposing new duties for revenue had reference solely to *silks and wines*. This has been a delicate point with me at no time. I have, for a long period, been desirous to lay such a duty on silks and wines; and it does appear to me the strangest thing imaginable, the strangest phase of the existing system of revenue, that we should import so many millions of dollars worth of silks and wines entirely free of duty, at the very time when the government has been compelled, by temporary loans, to keep itself in constant debt for four years past. So far from considering this a matter of any delicacy, had the Senate the constitutional power of originating revenue bills, the very first thing I should move, in my place, would be to lay a tax on both these articles of luxury.

Were I to draw an inference from the speech of the honora-

Digitized by Google

ble member, it would be that it rather seemed to be his own opinion, and certainly seemed also to be that of the President, that it would be wiser to withdraw the whole or a part of the money deposited with the States, than to lay taxes on silks and wines. In this opinion I do not at all concur. If the question were between such a withdrawal and the imposition of such a tax, I should, without hesitation, say, lay the tax, and leave the money with the States where it is. I am greatly mistaken if such a preference would not meet the public approbation. I am for taxing this enormous amount of twenty or thirty millions of foreign products imported in a single year, and all consumed in the country, and consumed as articles of luxury, by the rich alone, and for leaving the deposits in possession of the States with whom they have been placed.

I believe I have now noticed so much of the honorable Senator's speech as requires a reply; and I shall resume my seat with again repeating that it has been no part of my purpose to ascribe either extravagance, or the opposite virtue, to the administration, in the purchase of Indian lands or other transactions. That is not my object, or my point, on this occasion. I wish only to present a true financial view of the condition of our affairs, and to show that our national debt is much greater and more serious than a hasty reader of the message might be led to conclude; and however warmly it admonishes the country against a national debt, yet these admonitions are all uttered at a moment when a national debt has already been begun, begun in time of peace, begun under the administration of the President himself.

Digitized by Google

The Admission of Texas*

At a very early period of the session of 1845–46, a joint resolution for the admission of the State of Texas into the Union, was introduced into the House of Representatives by Mr. Douglass of Illinois, from the Committee on the Territories. This resolution, having rapidly passed through all the stages of legislation in the House, was referred in the Senate to the Committee on the Territories, and promptly reported back by Mr. Ashley of Arkansas, without amendment. On the 22d of December the resolution came up, on the question of a third reading, and was opposed by Mr. Webster as follows: —

I am quite aware, Mr. President, that this resolution will pass the Senate. It has passed the other house of Congress by a large majority, and it is quite well known that there is a decided majority in this house also in favor of its passage. There are members of this body, Sir, who opposed the measures for the annexation of Texas which came before Congress at its last session, who, nevertheless, will very probably feel themselves now, in consequence of the resolutions of the last session, and in consequence of the proceedings of Texas upon those resolutions, bound to vote for her admission into the Union. I do not intend, Mr. President, to argue either of the questions which were discussed in Congress at that time, and which have been so much discussed throughout the country within the last three years.

Mr. President, there is no citizen of this country who has been more kindly disposed towards the people of Texas than myself, from the time they achieved, in so very extraordinary a

* Remarks in the Senate of the United States, on the 22d of December, 1845, on the Admission of the State of Texas into the Union.

Digitized by Google

manner, their independence of the Mexican government. I have shown, I hope, in another place, and shall show in all situations, and under all circumstances, a just and proper regard for the people of that country; but with respect to its annexation to this Union it is well known that, from the first announcement of any such idea, I have felt it my duty steadily, uniformly, and zealously to oppose it. I have expressed opinions and urged arguments against it everywhere, and on all occasions on which the subject came under consideration. I could not now, if I were to go over the whole topic again, adduce any new views, or support old views, as far as I am aware, by any new arguments or illustrations. My efforts have been constant and unwearied; but, like those of others in the same cause, they have failed of success. I will therefore, Sir, in very few words, acting under the unanimous resolution and instructions of both branches of the legislature of Massachusetts, as well as in conformity to my own settled judgment and full conviction, recapitulate before the Senate and before the community the objections which have prevailed, and must always prevail, with me against this measure of annexation.

In the first place, I have, on the deepest reflection, long ago come to the conclusion, that it is of very dangerous tendency and doubtful consequences to enlarge the boundaries of this country, or the territories over which our laws are now established. There must be some limit to the extent of our territory, if we would make our institutions permanent. And this permanency forms the great subject of all my political efforts, the paramount object of my political regard. The government is very likely to be endangered, in my opinion, by a further enlargement of the territorial surface, already so vast, over which it is extended.

In the next place, I have always wished that this country should exhibit to the nations of the earth the example of a great, rich, and powerful republic, which is not possessed by a spirit of aggrandizement. It is an example, I think, due from us to the world, in favor of the character of republican government.

In the next place, Sir, I have to say, that while I hold, with as much integrity, I trust, and faithfulness, as any citizen of this country, to all the original arrangements and compromises under which the Constitution under which we now live was adopt-

Digitized by Google

ed, I never could, and never can, persuade myself to be in favor of the admission of other States into the Union as slave States, with the inequalities which were allowed and accorded by the Constitution to the slave-holding States then in existence. I do not think that the free States ever expected, or could expect, that they would be called on to admit more slave States, having the unequal advantages arising to them from the mode of apportioning representation under the existing Constitution.

Sir, I have never made an effort, and never propose to make an effort; I have never countenanced an effort, and never mean to countenance an effort, to disturb the arrangements, as originally made, by which the various States came into the Union. But I cannot avoid considering it quite a different question, when a proposition is made to admit new States, and that they be allowed to come in with the same advantages and inequalities which were agreed to in regard to the old. It may be said, that, according to the provisions of the Constitution, new States are to be admitted upon the same footing as the old States. It may be so; but it does not follow at all from that provision, that every territory or portion of country may at pleasure establish slavery, and then say we will become a portion of the Union, and will bring with us the principles which we have thus adopted, and must be received on the same footing as the old States. It will always be a question whether the other States have not a right (and I think they have the clearest right) to require that the State coming into the Union should come in upon an equality; and if the existence of slavery be an impediment to coming in on an equality, then the State proposing to come in should be required to remove that inequality by abolishing slavery, or take the alternative of being excluded.

Now, I suppose that I should be very safe in saying, that if a proposition were made to introduce from the North or the Northwest territories into this Union, under circumstances which would give them an equivalent to that enjoyed by slave States, — advantage and inequality, that is to say, over the South, such as this admission gives to the South over the North, — I take it for granted that there is not a gentleman in this body from a slave-holding State that would listen for one moment to such a proposition. I therefore put my opposition, as well as on other

Digitized by Google

grounds, on the political ground that it deranges the balance of the Constitution, and creates inequality and unjust advantage against the North, and in favor of the slave-holding country of the South. I repeat, that if a proposition were now made for annexations from the North, and that proposition contained such a preference, such a manifest inequality, as that now before us, no one could hope that any gentleman from the Southern States would hearken to it for a moment.

It is not a subject that I mean to discuss at length. I am quite aware that there are in this chamber gentlemen representing free States, gentlemen from the North and East, who have manifested a disposition to add Texas to the Union as a slave State, with the common inequality belonging to slave States. This is a matter for their own discretion, and judgment, and responsibility. They are in no way responsible to me for the exercise of the duties assigned them here; but I must say that I cannot but think that the time will come when they will very much doubt both the propriety and the justice of the present proceeding. I cannot but think the time will come when all will be convinced that there is no reason, political or moral, for increasing the number of the States, and increasing, at the same time, the obvious inequality which exists in the representation of the people in Congress by extending slavery and slave representation.

On looking at the proposition further, I find that it imposes restraints upon the legislature of the State as to the manner in which it shall proceed (in case of a desire to proceed at all) in order to the abolition of slavery. I have perused that part of the constitution of Texas, and, if I understand it, the legislature is restrained from abolishing slavery at any time, except on two conditions; one, the consent of every master, and the other, the payment of compensation. Now I think that a constitution thus formed ties up the hands of the legislature effectually against any movement, under any state of circumstances, with a view to abolish slavery; because, if any thing is to be done, it must be done within the State by general law, and such a thing as the consent of every master cannot be obtained; though I do not say that there may not be an inherent power in the people of Texas to alter the constitution, if they should be inclined to relieve themselves hereafter from the restraint under which they labor. But I speak of the constitution now presented to us.

Digitized by Google

Mr. President, I was not in Congress at the last session, and of course I had no opportunity to take part in the debates upon this question; nor have I before been called upon to discharge a public trust in regard to it. I certainly did, as a private citizen, entertain a strong feeling that, if Texas were to be brought into the Union at all, she ought to be brought in by diplomatic arrangement, sanctioned by treaty. But it has been decided otherwise by both houses of Congress; and, whatever my own opinions may be, I know that many who coincided with me feel themselves, nevertheless, bound by the decision of all branches of the government. My own opinion and judgment have not been at all shaken by any thing I have heard. And now, not having been a member of the government, and having, of course, taken no official part in the measure, and as it has now come to be completed, I have believed that I should best discharge my own duty, and fulfil the expectations of those who placed me here, by giving this expression of their most decided, unequivocal, and unanimous dissent and protest; and stating, as I have now stated, the reasons which have impelled me to withhold my vote

I agree with the unanimous opinion of the legislature of Massachusetts; I agree with the great mass of her people; I reaffirm what I have said and written during the last eight years, at various times, against this annexation. I here record my own dissent and opposition; and I here express and place on record, also, the dissent and protest of the State of Massachusetts.

Digitized by Google

Oregon*

VERY early in the first session of the Twenty-ninth Congress, General Cass, one of the Senators from Michigan, introduced resolutions directing the Committees on Military Affairs, the Militia, and Naval Affairs, respectively, to inquire into the condition of the national fortifications and their armaments; into the present condition of the militia and the state of the militia laws; and into the condition of the navy of the United States, and the quantity and condition of the naval supplies on hand. These resolutions were supported by General Cass in a short speech, in which he pointed to the relations of the United States and Great Britain in reference to the Oregon Territory, as making these inquiries into the state of the military defences of the country both prudent and necessary. On these resolutions Mr. Webster made the following remarks: —

I DO not propose to offer any opposition whatever to the passage of the resolutions, though I cannot perceive that there is any very great necessity for their adoption. It does not appear to me that they charge the committees with any especial new duty. Inquiry into the matters here suggested is the ordinary duty of the committees, and I do not think there are any extraordinary circumstances existing which render it necessary, on this occasion, to instruct them by a resolution of the Senate, or to stimulate them in the performance of an established duty. Nevertheless, I regret the introduction of these resolutions, combined, as they are, with the remarks which the Senator from Michigan has thought proper to address to the Senate, because I agree with the Senator from Kentucky,† that their introduc-

* Remarks on the Resolutions moved by General Cass in the Senate of the United States, on the 15th of December, 1845, directing Inquiry into the Condition of the Military Defences of the Country.

† Mr. Crittenden.

Digitized by Google

tion in that manner appears to give something to them of significance, which will create unnecessary alarm. Every member of the Senate knows, and every man of intelligence knows, that unnecessary alarm and apprehension about the preservation of the public peace is a great evil. It disturbs the affairs of the country, it disturbs the calculations of men, it deranges the pursuits of life, and even, to a great extent, changes the circumstances of the whole business of the community. This truth will be felt more especially by every gentleman acquainted or connected with the seaboard. They all know what an immense amount of property is afloat upon the ocean, carried there by our citizens in the prosecution of their maritime pursuits. They all know that a rumor of war, or the breath of a rumor of war, will affect the value of that property. They all know what effect it will have upon insurances. They all know what immense amounts of property on shore will be affected by the agitation of public opinion upon an intimation of the disturbance of the pacific relations existing between this country and foreign states.

Sir, there are two ways, in either of which a government may proceed; and, when I have stated them, I think it will be obvious to every one which is the wisest. We may, if we choose, create alarm and apprehension. We may, if we are wiser, cause no unnecessary alarm, but make quiet, thorough, just, politic, statesmanlike provision for the future.

Mr. President, I am entirely of the opinion of the Senator from Kentucky. I have not been able to bring myself to believe that war will grow out of this matter, certainly not immediately; and I think I cannot be mistaken when I say, that the recommendations which the chief magistrate has made to Congress do not show that he expects war. I think it impossible to mistake the meaning of the President. He does not expect war. Looking at the state of things around us, and at what is stated by the executive, I cannot believe that he apprehends any danger.

Sir, I abstain cautiously from offering any remark upon that portion of the message which refers to the negotiation. I abstain with equal care from any remark upon a correspondence which has been published. I do not wish to say whether it appears from that correspondence that negotiation is so com-

Digitized by Google

pletely and entirely at an end, that no amicable disposition of the question may be looked for hereafter from a diplomatic source. It is enough for me, in order to accomplish all the purposes of these few remarks, to say, that, while I am incapable of bringing myself to the belief that the President apprehends any immediate danger of war, I may be allowed to suppose, or to imagine, that he may entertain an opinion similar to that which has been expressed this morning by the Senator from Connecticut.* He may possibly, having communicated the ultimatum of this government, look for propositions to come from the other side. Whether it be in this view or upon other grounds that the expectation is entertained, it is enough for me to deprecate any false alarm that may disturb the tranquillity of the country.

The President may feel, as I am bound to suppose he does feel, the full weight of the responsibility which attaches to him in relation to every public interest, and the greatest of all interests, the peace of the country. I am bound to suppose that he understands the position in which he is placed, and that he judges wisely as to the extent to which he should go in submitting propositions to Congress. Therefore, I entirely concur in the opinion which has been expressed, that he cannot regard the present position of affairs as leading to any immediate danger of war.

Acting upon these conclusions, and entertaining these views, all the regret I feel at the introduction of these resolutions is, as I have said, that, accompanied with the remarks which fell from the honorable Senator when he called them up, they may have a tendency to create unnecessary alarm. I trust that every member of the community will perceive that it is expedient to prevent all alarm; at the same time, as far as I am concerned, if gentlemen think that the time has come for enlarging the defences of the country, for augmenting the army and the navy, I am ready to coöperate with them.

* Mr. Niles.

Digitized by Google

Oregon*

At the first session of the Twenty-ninth Congress, the President in his annual message recommended to the two houses that the United States should give notice to Great Britain of their intention to terminate the Convention between the two countries, concluded in 1827, for the joint occupation of the Oregon Territory; in pursuance of the right reserved to either party by that Convention on notice duly given to the other party. A joint resolution to carry this recommendation into effect was introduced into the Senate by Mr. Allen of Ohio, and referred to the Committee on Foreign Relations. It was reported back to the Senate with amendments proposed by the committee, and other amendments were moved by individual Senators. Among other amendments the following, preceded by a preamble, was moved by Mr. Crittenden of Kentucky: —

"That the President of the United States be, and he hereby is, authorized, at his discretion, to give to the British government the notice required by its said second article for the abrogation of the said Convention of the 6th of August, 1827: *Provided however*, that, in order to afford ampler time and opportunity for the amicable settlement and adjustment of all their differences and disputes in respect to said territory, said notice ought not to be given till after the close of the present session of Congress."

This amendment to the proposition of the committee was discussed on several successive days; and on the 26th of February, Mr. Colquitt of Georgia brought forward two resolutions, as a substitute for the resolution of Mr. Crittenden. The first was substantially a repetition of Mr. Crittenden's proposition. The second was in the following terms: —

* Remarks made in the Senate of the United States, on the 26th of February, 1846, on the various propositions before the Senate relative to giving notice to the British Government of the intention of the Government of the United States to put an end to the Convention for the Joint Occupation of the Oregon Territory.

Digitized by Google

"And be it further resolved, that it is earnestly desired that the long standing controversy, respecting limits in the Oregon Territory, be speedily settled by negotiation and compromise, in order to tranquillize the public mind and to preserve the friendly relations of the two countries."

The question being on the adoption of Mr. Crittenden's substitute for the committee's amendment, Mr. Webster spoke as follows: —

Mr. President, — I concur most cordially in the sentiments so beautifully expressed by the honorable Senator* who has just taken his seat. I do not differ with him a hair's breadth in the principles he has laid down, nor in his sense of propriety in regard to the present debate. My purpose has merely been, to ascertain whether the question to be debated cannot be put in a more convenient form than that which it assumes at present. The Senator from Kentucky moved an amendment to the amendment reported from the Committee on Foreign Relations. The Senator from Georgia then suggested another, slightly differing in form, which he intends to move, when it shall be in order, as a substitute for that of the Senator from Kentucky. To facilitate the action of the Senate, it has been proposed to the gentleman from Kentucky to accept the amendment of the Senator from Georgia; and he has now declared, that, in regard to the first part of the proposition of the gentleman from Georgia, he has no difficulty in accepting it in place of his own, or as a modification of his own. In regard to the latter part of that proposition, he considers it as in its nature distinct and substantive; he understands it as going further than his own proposition, and as not being, therefore, a natural substitute for it. Now, if it is the disposition of the Senate to act on this subject further than has been proposed by the honorable Senator from Kentucky, the only question will be, whether the Senator will not consent wholly to withdraw his own amendment, and suffer that of the Senator from Georgia to be moved in its place.

I do not, however, think it of particular importance that the Senate should express an opinion on this matter to-day or to-morrow, or this week or the next. I suppose, indeed, that the proceedings of the Senate on this subject are regarded with extreme interest at home, and looked upon with great respect abroad; and I feel more strongly, perhaps, than the Senator from

* Mr. Crittenden.

Digitized by Google

Kentucky the evils to which he has referred, because I live in the very midst of them, and witness from day to day the great injury sustained by the commercial interests of this country from the present uncertain and anxious posture of affairs.

Let me add a few words more. I shall vote for both portions of the amendment suggested by the Senator from Georgia. I am prepared to do so. At the opening of the present session of Congress, the President, not called upon by the Senate, sent to the two houses the correspondence which had taken place between the Secretary of State and the representative of the British government here, recommending at the same time the giving of notice to that government of the termination of the Convention of 1827. The correspondence thus submitted has very properly been made a subject of remark in both houses. I will say nothing in regard to the propriety of sending that correspondence here. I suppose such a step could hardly be justified, save on the ground that the negotiation was ended by the rejection of the President's offer of the parallel of forty-nine degrees of north latitude as the boundary, and the immediate withdrawal of that offer; because, in the general practice of governments, it has been found very inconvenient to publish the letters which may pass between negotiators before the negotiation is ended. But as the President has sent us this correspondence, and as the Senate is called upon to act on the proposition of notice, I thought it would expedite our decision to have before us also any further correspondence which might have taken place subsequently to that first sent. I accordingly moved the call, and, in response to it, the more recent correspondence has been laid before us, from which we learn the offer by the British envoy to submit the question to arbitration, and the rejection of that offer by the executive.

Now, without meaning at this time to go into any sort of examination of the course of the President in this matter, or indulging in any remark expressive of an unfriendly feeling towards the administration, or any disposition to embarrass the government, for I feel nothing of the kind, and nothing is further from my intention, I must still be permitted to say, that the existing posture of affairs is such as to render it quite desirable that we should know what is the opinion of the executive in regard to this measure and its consequences. Nobody doubts

Digitized by Google

that the two houses of Congress have a perfect authority to terminate the Oregon Convention, without offence to any body. This is our specified right, and its exercise can present no just cause of complaint in any quarter. But, though this is an undoubted truth, yet it must be considered in connection with the circumstances which have been made to surround it. The resolution of notice has passed the other house of Congress with a qualification, or addition, or whatever else it should be called, which prevents it in some respects from being a mere naked notice of termination. It comes with that qualification or condition for adoption here. Other propositions are offered in the Senate, and are entertained as fit subjects of consideration.

The Senator from Kentucky, in one part of his speech, says that he will leave the entire responsibility of this controversy where the Constitution has placed it, and contends that those who have the power to conduct the foreign diplomacy of the country are responsible to the country and to the world for the manner in which they shall exercise that power. This is certainly very just, but it raises a doubt whether we ought to do more than simply to give, or to refuse to give, the naked notice. But some modification of the mere naked notice has been already attached to it in the other house; and there is, as I believe, a conviction on the part of a large majority of the Senate, that it should, to a certain extent, be qualified. Now, I hold that, under these circumstances, we have a right to know in what point of view the executive himself regards this notice; what are the ends he has in view, and what are the consequences to which, in his judgment, the notice is to lead.

When speaking on this subject some weeks ago, I said it was most obvious that the President could not expect war; because he did not act as the chief magistrate of such a nation as this must be expected to act, if, charged as he is with the defence of the country, he expected any danger of its being assaulted by the most formidable power upon earth. I still say there is nothing in the executive communications to show us that the President does expect a war. He must, then, expect nothing but a continuance of the present controversy, or a settlement of it by negotiation. But how is it to be settled? On what terms? On what basis? All that we hear is, "The whole of Oregon or none." And yet there is to be negotiation. We cannot con-

Digitized by Google

ceal from ourselves or the world the gross inconsistency of such conduct. It is the spirit of the whole negotiation, on our part, that Oregon is ours; there is nothing like admitting even a doubt, on the part of ourselves or others, as to that position; and yet we are to negotiate! What is negotiation? Does any gentleman expect that the administration are, by negotiation, to persuade Great Britain to surrender the whole of what she holds in Oregon? They may do this; I cannot say they will not. If that is their expectation, let them try their hand at it; I wish them success. That is, I wish that we may get "all Oregon" if we can; but let our arguments be fair, and let our demands be reasonable.

But I do not understand the position we are placed in. The executive seems to be for negotiation, and yet is against taking any thing but the whole of Oregon. What, then, is to be the ground of negotiation? What is the basis on which it is to proceed? If the President has made up his mind not to treat for less than the whole, he should say so, and throw himself at once on the two houses of Congress.

I am entitled to make this remark, because it cannot be disguised that the probable effect of this notice is viewed very differently by very intelligent gentlemen, all friends of the administration, on this floor. The Senator from Georgia regards it as a measure tending to peace. He hopes, he expects, peace from it, and he thinks the expression of such opinions as he avows will enable the administration to secure the peace of the country. There are certain other gentlemen, and among them the honorable Senator from Michigan,* who are much less ardent in their hopes of peace. That Senator's impression has been, that, if we pass this notice, there is a possibility and a prospect of war; and so, against the gentleman's own declarations and disavowals, his speeches generally terminate in the expression that war is inevitable.

After an explanation from Mr. Cass, Mr. Webster proceeded as follows: —

The gentleman thinks we shall not recede, and that England will not recede; and then what more likely to happen than a

* Mr. Cass.

Digitized by Google

war? It was the Senator's argument, and not any particular expression he employed, which gave me the idea that such was his impression. I do not charge the gentleman with saying that "war is inevitable"; but what he did say yet rings in my ears, and on every return of the like language I am reminded of the sentence with which the Roman Senator ended all his speeches, "Delenda est Carthago."

I am desirous of expressing the sentiment (without wishing to embarrass the administration: if negotiations are pending I will hold my tongue; my tongue shall be blistered before I will say any thing against our own title so long as negotiations are pending; but the President must see the embarrassment under which we stand; I am willing to aid the administration, and will aid it to obtain all to which we are justly entitled) that I must know something of the views, expectations, end, and objects of the President in recommending this notice. I cannot much longer be quiet in the existing posture of affairs, when no measures of defence are recommended to us, but negotiation is held out as likely to bring the question to a settlement by England's giving up the whole matter in dispute. My doubt of that is as strong as that expressed by the Senator from Michigan. I say here, so far as my own knowledge goes, that it is not the judgment of this country, that it is not the judgment of this Senate, that the government of the United States shall run the hazard of a war for Oregon, by renouncing as no longer fit for consideration propositions made by ourselves to Great Britain thirty years ago, and repeated again and again before the world. I do not speak of any specific propositions, but of the general idea, of the general plan, so justly suggested by the Senator from Missouri,* of separating the interests of British subjects and American citizens beyond the Rocky Mountains. I repeat the assertion, that it is not the judgment of this country that we are bound to reject our own propositions, made over and over again, twenty and thirty years ago. I do not believe that such is the judgment of this Senate. I have the fullest belief that the propositions proposed by the gentleman from Georgia concur with the views of a large majority of this body.

(A Voice. Yes, of two thirds.)

* Mr. Benton.

Digitized by Google

A gentleman near me says of two thirds of it; and I am willing to try that question immediately. I am ready now to take the question, whether this difficulty shall or shall not be settled by compromise. Compromise I can understand; but negotiation, with a fixed resolution to take and not to give, with a predetermination not to take less than the whole, is what I do not and cannot understand in diplomacy. I wish we could take that question now; not for the purpose of giving information in any quarter, but in order to put an end to the present distressing, distracting state of things. There are many subjects which we should attend to, all of which are greatly and materially embarrassed by the present position of this affair. It is proposed, for example, to remodel the tariff. But with what view? To augment revenue, or reduce revenue? If it is to augment the revenue, then, I ask, is that with a view to war? If it is to reduce revenue, then, I ask, is that with a view to peace? How can we possibly know how to act, without the least knowledge whether there is a likelihood of the continuance of peace, or whether we are on the eve of a war?

The embarrassment in the private affairs of men is equally pressing. The nation possesses a great commerce. Now it is easy for a gentleman to say, "I disregard commerce on a question of the national honor." So do I, when that is the question. If the honor of my country is attacked, I will say, in the memorable language once used by a member of the other house, "Perish commerce!" But there are interests not to be trifled with. Those great interests of this country, in which is involved the daily bread of thousands and millions of men, are not to be put in jeopardy for objects not in reality connected either with the honor or the substantial interests of the country. I wish, therefore, so soon as it is practicable, to obtain an expression of the opinion of the Senate. If it shall be the opinion of this body that it is best to give the naked notice recommended in the President's message, that will throw the responsibility upon the executive to the fullest extent. I am for taking a question either on the naked notice, or on notice in some modified form, such as shall express what I believe to be the judgment both of the Senate and of the country.

Digitized by Google

Oregon*

Mr. President, — I shall advise my honorable friend, the member from Delaware, to forbear from pressing this resolution for a few days. There is no doubt that there are letters from Mr. McLane; but as the chairman of the Committee on Foreign Relations opposes this motion, I am to presume that the executive government finds it inconvenient to communicate those letters to the Senate at the present moment. Yet it is obvious, as the Senate is called upon to perform a legislative act, that it ought, before the hour of its decision comes, to be put in possession of every thing likely to influence its judgment; otherwise, it would be required to perform high legislative functions on mere confidence.

There is certainly some embarrassment in the case. If the executive government deems the communication of the correspondence inconvenient, it can only be because negotiation is still going on, or, if suspended, is expected to be resumed. So far as negotiation is concerned, the communication, or publication, of the correspondence may very properly be thought inconvenient. But then the President has recommended the passage of a law, or resolution, by the two houses of Congress. In support of this recommendation, he himself sent us, unasked, at the commencement of the session, the correspondence up to that time. Now, if that was necessary, the rest is necessary. If we are entitled to a part, we are entitled to the whole. In my opinion, the mistake was in calling on Congress to authorize notice

* Remarks made in the Senate of the United States, on the 30th of March, 1846, on a Resolution moved by Mr. Clayton of Delaware, on the 3d instant, calling upon the President for such portions of the Correspondence between the Governments of the United States and Great Britain, as had not already been communicated.

Digitized by Google

to be given England of the discontinuance of what has been called the joint occupation, until negotiation had been exhausted. Negotiation should have been tried first, and when that had failed, and finally failed, then, and not till then, should Congress have been called upon.

I now go on the ground, of course, that the notice for discontinuing the joint occupancy is properly to be given by authority of Congress, a point which I do not now discuss. It is said, indeed, that notice is to be used as a weapon, or an instrument, in negotiation. I hardly understand this. It is a metaphor of not very obvious application. A weapon seems to imply not a facility, or mere aid, but the means, either of defence against attack, or of making an attack. It sounds not altogether friendly and pacific. I doubt exceedingly whether, under present circumstances, notice would hasten negotiation; and yet such are those circumstances, that there may be as much inconvenience in standing still as in going forward. The truth is, that great embarrassment arises from the extreme pretensions and opinions put forward by the President in his inaugural address a year ago, and in his message last December. But for these, notice would have been harmless, and perhaps would have been authorized by both houses without much opposition, and received by England without dissatisfaction. But the recommendation of the notice, coupled with the President's repeated declarations, that he held our title to the whole territory to be "clear and unquestionable," alarmed the country. And well it might. And if notice were required, in order to enable the President to push these extreme claims to any and every result, then notice ought to be refused by Congress, unless Congress is ready to support these pretensions at all hazards.

Here lies the difficulty. Congress is not prepared, and the country is not prepared, as I believe, to make the President's opinion of a clear and unquestionable right to the whole territory an ultimatum. If he wants notice for such a purpose, he certainly must see that it becomes a grave question whether Congress will grant it. It was a great, a very great mistake, to accompany the recommendation of notice with so positive an assertion of our right to the whole territory. Did the President mean to adhere to that, even to the extremity of war? If so, he should have known that, after what has happened in years past,

Digitized by Google

the country was not likely to sustain him. Did he mean to say this, and afterwards recede from it? If so, why say it at all? Surely, the President could not be guilty of playing so small a part, as to endeavor to show himself to possess spirit, and boldness, and fearlessness of England greater than his predecessors, or his countrymen, and yet do all this in the confident hope that no serious collision would arise between the two countries. So low an ambition, such paltry motives, ought not to be imputed to him. When the President declared that, in his judgment, our title to the whole of Oregon was "clear and unquestionable," did he mean to express an official, or a mere personal opinion? If the latter, it certainly had no place in an official communication. If the former, if he intended a solemn official opinion, upon which he was resolved to act officially, then it is a very grave question how far he is justified, without new lights, or any change of circumstances, in placing the claims of the country, in this respect, on other grounds than those upon which they had stood under his predecessors, and with the concurrence of all branches of the government for so many years; for it is not to be doubted that the United States government has admitted, through a long series of years, that England has rights in the northwestern parts of this continent which are entitled to be respected.

Mr. President, one who has observed attentively what has taken place here and in England within the last three months must, I think, perceive that public opinion, in both countries, is coming to a conclusion that this controversy ought to be settled, and is not very diverse in the two countries as to the general basis of such a settlement. That basis is the offer made by the United States to England in 1826. There is no room to doubt, I think, that this country is ready to stand by that offer, substantially and in effect. Such is my opinion, at least; and circumstances certainly indicate that Great Britain would not, in all probability, regard such a proposition as unfit to be considered.

I said, some weeks ago, that I did not intend to discuss titles at length, and certainly not to adduce arguments against our own claim. But it appears to me that there is a concurrence of arguments and considerations in favor of regarding the forty-ninth parallel as the just line of demarcation, which both coun-

Digitized by Google

tries might well respect. It has for many years been the extent of our claim. We have claimed up to forty-nine degrees, and nothing beyond it. We have offered to yield every thing north of it. It is the boundary between the two countries on this side of the Rocky Mountains, and has been since the purchase of Louisiana from France. I do not think it important either to prove or disprove the fact, that commissioners under the treaty of Utrecht established the forty-ninth parallel as the boundary between the English and French possessions in America. Ancient maps and descriptions so represent it; some saying that this line of boundary is to run "indefinitely west," others saying, in terms, that it extends "to the northwestern ocean." But what is more important, we have considered this boundary as established by the treaty of Utrecht, at least on this side of the Rocky Mountains. It was on the strength of this that we drove back the British pretensions, after we had obtained Louisiana, north, from the head-waters of the Mississippi to this parallel of forty-nine. This is indubitable. We have acted, therefore, and induced others to act, on the idea that this boundary is actually established. It now so stands in the treaty between the United States and England. If, on the general notion of *contiguity* or *continuity*, this line be continued "indefinitely west," or is allowed to run to the "northwestern ocean," then it leaves on our side the valley of the Columbia, to which, in my judgment, our title is maintainable on the ground of Gray's discovery. The government of the United States has never offered any line south of forty-nine, (with the navigation of the Columbia,) and it never will. It behooves all concerned to regard this as a settled point. With respect to the navigation of the Columbia, permanently or for a term of years, that is all matter for just, reasonable, and friendly negotiation. But the forty-ninth parallel must be regarded as the general line of boundary, and not to be departed from for any line farther south. As to all straits, and sounds, and islands in the neighboring sea, all these are fair subjects for treaty stipulation. If the general basis be agreed to, all the rest, it may be presumed, may be accomplished by the exercise of a spirit of fairness and amity.

And now, Mr. President, if this be so, why should this settlement be longer delayed? Why should either government hold back longer from doing that which both, I think, can see must

Digitized by Google

be done, if they would avoid a rupture? Every hour's delay is injurious to the interests of both countries. It agitates both, disturbs their business, interrupts their intercourse, and may, in time, seriously affect their friendly and respectful feeling towards each other. Having said this, Mr. President, my purpose is fulfilled. It would be needless, even if it were proper, to say more. I consider the general sentiment of both countries as almost entirely concentrated on this line as the general basis of a line of demarcation. As yet nothing has happened to touch the point of honor of either government. Why, then, should not the propitious moment be seized? It is not humiliation, it is not condescension even, in either government, to do that now which it sees it must do at some time, if it would avoid serious and calamitous collision. Now, while there is no point of honor raised, in correspondence or otherwise, between the two governments, why should not both seize the auspicious moment? Let fairness and candor, and, I will add, prudence and foresight, rule the hour. Let this controversy be settled, the sooner the better, substantially, according to my judgment, in the manner in which it must eventually be settled, and let the vast and useful intercourse between the two nations be set free from all alarm and disturbance.

It would suit my views of what this occasion calls for, that the measure under consideration* should be postponed for a month, because I desire, if it can be done, that the negotiation should close, and close favorably; and so put an end to the question of notice. I desire that more especially, because every one must see that, if forced to act here upon this notice, we must, as a matter of course, call for all information not yet transmitted to Congress similar in character to that which the President has already sent us. I do not propose that, however. I would not divide the Senate on such a proposition, but I would suggest to those who have the conduct of this affair, whether it is not every way better now to postpone this joint resolution for some time, till some correspondence may take place between the two governments, till there is opportunity for the transmission of letters and despatches, and until it be seen whether it will be necessary to give the notice at all. I say

* The notice to the British government that it is the intention of the government of the United States to terminate the Convention.

Digitized by Google

this because I have the fullest persuasion that notice will be no aid to negotiation in the present circumstances of the country; and yet I am sorry to say that, if no agreement be come to, and the matter is not speedily settled, there are strong considerations arising at home which may render it proper, in my judgment, to pass the notice. If I had the control of this measure, or the conduct of it here, I should lay it on the table for a month. But I have not that power of control. Gentlemen must judge of the propriety of this suggestion according to their own discretion. Of this, however, I suppose there is no doubt, that, in the present circumstances of the case, the executive government may feel that it is at this peculiar moment inconvenient to make this communication; and I must presume inconvenient only because negotiations are resumed, or are expected to be resumed. Inasmuch as that is the case, I hope my honorable friend from Delaware will let his resolution lie informally on the table.

After some remarks from Mr. Allen of Ohio, Mr. Webster said in reply: —

One word, Sir. It is very true that I have expressed myself on this occasion with premeditated precision. It is an important question, respecting the intercourse of nations, in a considerable emergency between these two nations. It is of importance to be precise, and I really do not think that it would be far out of the way if other gentlemen sometimes would take the same care to make their expressions precise. The gentleman sees fit to consider that this will be regarded as humiliation abroad, humiliation on our part. I fancy not. I am quite apprehensive that, if any countenance in Great Britain, be it high or low, for any thing that has occurred here at this session, puts on a pout, or a sarcastic smile, it is not more likely to be originated by what has taken place on our side of this question than by what may take place on the other.

One word upon a more important part of the case. The gentleman says that I offer now the boundary of the Columbia. Pray, Sir, let me be understood; and such misapprehension of my offer certainly shows that I was not far out of the road of reason and propriety in stating what I intended to say to the Senate in writing. What I have said, and took care to say with

Digitized by Google

precision, was this: First, that in my opinion, — I lay down no law, I say nothing *ex cathedrâ*, — that, in my opinion, public sentiment in both countries is strongly tending to a union upon a settlement on the general basis of our offer of 1826. Now I ask the Senator from Ohio if he does not think just so himself?

Mr. Allen having made one or two remarks expressive of dissent, Mr. Webster resumed as follows: —

If my opinion be so wide of the truth, and the opinion of the country is not tending, as the gentleman says it is not, as I represented it, then my opinion goes for nothing. Let him, however, hear what I said, which I said with care and premeditation; it is, that the line of the forty-ninth degree is the line of demarcation on which, as a general basis, public opinion is settling. I do not say the precise basis, because I immediately added, that, looking to the line of the forty-ninth degree as the line of demarcation, the use of the Columbia River by England, permanently or for a number of years, and the use of the straits and sounds in the adjacent sea, and the islands along the coast, would all be matter of friendly negotiation. I have not recommended to our government one thing or another about allowing England, for a term of years, the use of the Columbia River; not at all. If the line of the forty-ninth degree be established as the general line of demarcation, giving us a straight track from the Lake of the Woods to the Pacific, I am satisfied that the government negotiate about what remains. But the Senator and Senate will do me the justice to admit, that I said as plainly as I could, and in as short a sentence as I could frame, that England must not expect any thing south of the forty-ninth degree. I may be mistaken, but it seems to me as clear as the sun at noonday, that there is a tendency of opinion, moved by a great necessity to settle this question, a strong tendency of opinion, in this country, that we ought to stand by our offer of 1826 in its substance. Is not that just what was argued by the gentleman from South Carolina* the other day? Is not that the result of the discussion in which my friend from New Jersey† took part, to prove that that was the extent of our claim, and that the whole country knows it? Now I think there are rea-

* Mr. Calhoun. † Mr. Dayton.

Digitized by Google

sons for that. But I rose merely to explain. I mean then to say, for the sake of perfect distinctness I repeat it, that I am of opinion that this matter must be settled upon the forty-ninth parallel. Then as to the use of the Columbia River permanently or for a term of years, and also in regard to all that respects straits, and sounds, and islands in the neighboring seas, they are fit subjects for negotiation. But that England must not expect any thing south of the forty-ninth degree, and that the people of the United States, by a great majority, are content now to abide by what this government offered to England in 1826.

Digitized by Google

Defence of the Treaty of Washington*

In the course of the debates in Congress in the session of 1845 – 46 on the resolution for terminating the Convention for the joint occupancy of the Oregon Territory, the treaty of Washington and the negotiation which led to it were subjects of comment and animadversion in both houses. The general principles upon which the negotiation had been conducted on the part of the United States, as well as the particular provisions of the treaty were found fault with. The American negotiator (Mr. Webster) was charged with having failed, in several respects, to assert the rights and protect the interests of the country. He was accused of having unconstitutionally surrendered a portion of the State of Maine to a foreign power, and of having accepted a line of boundary between the United States and the British Provinces unfavorable to the former. The mode was condemned in which the subject of the search of vessels suspected of being engaged in the slave trade on the coast of Africa was disposed of; and it was insisted, that no redress had been obtained for the violation of the territorial rights of the United States in the destruction of the "Caroline."

Not having been a member of the last Congress, Mr. Webster had as yet had no favorable opportunity to undertake a vindication of the treaty, which had been the subject of attack upon the grounds just indicated, from the time of its negotiation. The debate upon the Oregon question furnished the occasion for such a defence. Mr. Dickinson, a Senator from New York, in the publication of his speech on that subject, referred to a speech of Mr. Charles J. Ingersoll, a member of the House of Representatives from Pennsylvania, and quoted his words, as his authority for certain injurious statements in reference to the affair of the Caroline. Mr. Webster felt called upon to repel the charge thus made and vouched for, and availed himself of the opportunity to enter, in

* A Speech delivered in the Senate of the United States, on the 6th and 7th of April, 1846.

Digitized by Google

the following speech, into a general history and defence of the negotiation and the treaty.

It is altogether unexpected to me, Mr. President, to find it to be my duty, here, and at this time, to defend the treaty of Washington of 1842, and the correspondence accompanying the negotiation of that treaty. It is a past transaction. Four years almost have elapsed since the treaty received the sanction of the Senate, and became the law of the land. While before the Senate, it was discussed with much earnestness and very great ability. For its ratification it received the votes of five sixths of the whole Senate, a greater majority, I believe I may say, than was ever before found for any disputed treaty. From that day to this, although I had taken a part in the negotiation of the treaty, and felt it to be a transaction with which my own reputation was intimately connected, I have been willing to leave it to the judgment of the nation. Some things, it is true, had taken place, of which I have not complained, and do not complain, but which, nevertheless, were subjects of regret. The papers accompanying the treaty were voluminous. Their publication was long delayed, waiting for the exchange of ratifications; and, when finally published, they were not distributed to any great extent, or in large numbers. The treaty, meantime, got before the public surreptitiously, and, with the documents, came out by piecemeal. We know that it is unhappily true, that, away from the large commercial cities of the Atlantic coast, there are few of the public prints of the country which publish official papers on such an occasion at length. I might have felt a natural desire, that the treaty and the correspondence should be known and read by every one of my fellow-citizens, from East to West, and from North to South. Indeed, I did feel such a desire. But it was impossible. Nevertheless, in returning to the Senate again, nothing was further from my purpose than to renew the discussion of any of the topics debated and settled at that time; and nothing further from my expectation than to be called upon by any sense of duty to my own reputation, and to truth, to make now any observations upon the treaty, or the correspondence.

But it has so happened, that, in the debate on the Oregon question, the treaty, and I believe every article of it, and the correspondence accompanying the negotiation of that treaty,

Digitized by Google

and I believe every part of it, have been the subject of disparaging, disapproving, sometimes contumelious remarks, in one or the other of the houses of Congress. Now, with all my indisposition to revive past transactions and make them the subjects of debate here, and satisfied, and indeed highly gratified, with the approbation of the treaty so very generally expressed by the country, at the time and ever since, I suppose that it could hardly be expected, nevertheless, by any body, that I should sit here from day to day, through the debate, and through the session, hearing statements entirely erroneous as to matters of fact, and deductions from these supposed facts quite as erroneous, all tending to produce unfavorable impressions respecting the treaty, and the correspondence, and every body who had a hand in it, — I say it could hardly be expected by any body that I should sit here and hear all this, and keep my peace. The country knows that I am here. It knows what I have heard, again and again, from day to day; and if statements wholly incorrect are made here, and in my presence, without reply or answer from me, why, shall we not hear in all the contests of party and elections hereafter, that this is a fact, and that is a fact, because it has been stated where and when an answer could be given, and no answer was given? It is my purpose, therefore, to give an answer here, and now, to whatever has been alleged against the treaty, or the correspondence.

Mr. President, in the negotiation of 1842, and in the correspondence, I acted as Secretary of State, under the direction, of course, of the President of the United States. But, Sir, in matters of high importance, I shrink not from the responsibility of any thing I have ever done under any man's direction. Wherever my name stands I am ready to answer it, and to defend that with which it is connected. I am here to-day to take upon myself, without disrespect to the chief magistrate under whose direction I acted, and for the purposes of this discussion, the whole responsibility of every thing that has my name connected with it, in the negotiation and correspondence.

Sir, the treaty of Washington was not entered into to settle any, or altogether for the purpose of settling any, new questions. The matter embraced in that treaty, and in the correspondence accompanying it, had been interesting subjects in our foreign relations for fifty years, unsettled for fifty years, agitating and

Digitized by Google

annoying the counsels of the country, and threatening to disturb its peace for fifty years. My first duty, therefore, in entering upon such remarks as I think the occasion calls for in regard to one and all of these topics, will be, to treat the subjects historically, to show when each arose what has been its progress in the diplomatic history of the country, and especially to show in what posture each of those important subjects stood at the time when General Harrison acceded to the office of President of the United States. This is my purpose. I do not intend to enter upon any crimination of gentlemen who have filled important situations in the executive government in the earlier, or in the more recent, history of the country. But I intend to show, in the progress of this discussion, the actual position in which things were left in regard to the topics embraced by the treaty, and the correspondence attending its negotiation, when the executive government devolved upon General Harrison, and his immediate successor, Mr. Tyler.

Now, Sir, the first of these topics is the question of the northeastern boundary of the United States. The general history of that question, from the peace of 1783 to this time, is known to all public men, of course, and pretty well understood by the great mass of well-informed persons throughout the country. I shall therefore state it quite briefly.

In the treaty of peace of September, 1783, the northern and eastern, or perhaps, more properly speaking, the northeastern boundary of the United States, is described as follows: —

"From the northwest angle of Nova Scotia, namely, that angle which is formed by a line drawn due north from the source of St. Croix River to the Highlands; along the said Highlands, which divide those rivers that empty themselves into the River St. Lawrence from those which fall into the Atlantic Ocean, to the northwesternmost head of Connecticut River; thence, along the middle of that river, to the forty-fifth degree of north latitude; from thence, by a line due west on said latitude, until it strikes the River Iroquois or Cataraquy. . . . . .

"East, by a line to be drawn along the middle of the River St. Croix, from its mouth in the Bay of Fundy, to its source, and from its source directly north to the aforesaid Highlands."

Such is the description of the northeastern boundary of the United States, according to the treaty of peace of 1783. And it is quite remarkable that so many embarrassing questions

Digitized by Google

should have arisen from these few lines, and have been matters of controversy for more than half a century.

The first disputed question was, "Which, of the several rivers running into the Bay of Fundy, is the St. Croix, mentioned in the treaty?" It is singular that this should be matter of dispute, but so it was. England insisted that the true St. Croix was one river; the United States insisted it was another.

The second controverted question was, "Where is the northwest angle of Nova Scotia to be found?"

The third, "What and where are the highlands, along which the line is to run, from the northwest angle of Nova Scotia to the northwesternmost head of Connecticut River?"

The fourth, "Of the several streams which, flowing together make up Connecticut River, which is that stream which ought to be regarded as its northwesternmost head?"

The fifth was, "Are the rivers which discharge their waters into the Bay of Fundy rivers 'which fall into the Atlantic Ocean,' in the sense of the terms used in the treaty?"

The fifth article of the treaty between the United States and Great Britain of the 19th of November, 1794, after reciting, that doubts had "arisen what river was truly intended under the name of the River St. Croix," proceeded to provide for the decision of that question, by creating three commissioners, one to be appointed by each government, and these two to choose a third; or, if they could not agree, then each to make his nomination, and decide the choice by lot. The two commissioners agreed on a third; the three executed the duty assigned them, decided what river was the true St. Croix, traced it to its source, and there established a monument. So much, then, on the eastern line was settled; and all the other questions remained wholly unsettled down to the year 1842.

But the two governments continued to pursue the important and necessary purpose of adjusting boundary difficulties; and a convention was negotiated in London, by Mr. Rufus King and Lord Hawkesbury, and signed on the 12th day of May, 1803, by the second and third articles of which it was agreed, that a commission should be appointed in the same manner as that provided for under the treaty of 1794; to wit, one commissioner to be appointed by England, and one by the United States, and these two to make choice of a third; or, if they could not agree,

Digitized by Google

each to name the person he proposed, and the choice to be decided by lot; this third commissioner, whether appointed by choice or by lot, would, of course, be umpire or ultimate arbiter.

Governments, at that day, in disputes concerning territorial boundaries, did not set out each with the declaration that the whole of its own claim was "clear and unquestionable." Whatever was seriously disputed they regarded as in some degree, at least, doubtful or disputable; and when they could not agree, they saw no indignity or impropriety in referring the dispute to arbitration, even though the arbitrator were to be appointed by chance from among respectable persons named severally by the parties.

The commission thus constituted was authorized to ascertain and determine the northwest angle of Nova Scotia; to run and mark the line from the monument, at the source of the St. Croix, to that northwest angle of Nova Scotia; and also to determine the northwesternmost head of Connecticut River; and then to run and mark the boundary line between the northwest angle of Nova Scotia and the said northwesternmost head of Connecticut River; and the decision and proceedings of the said commissioners, or a majority of them, were to be final and conclusive.

No objection was made by either government to this agreement and stipulation; but an incident arose to prevent the final ratification of this treaty, and it arose in this way. Its fifth article contained an agreement between the parties settling the line of boundary between them beyond the Lake of the Woods. In coming to this agreement they proceeded, exclusively, on the grounds of their respective rights under the treaty of 1783; but it so happened that, twelve days before the convention was signed in London, France, by a treaty signed in Paris, had ceded Louisiana to the United States. This cession was at once regarded as giving to the United States new rights, or new limits, in this part of the continent. The Senate, therefore, struck this fifth article out of the convention; and as England did not incline to agree to this alteration, the whole convention fell.

Here, Sir, the whole matter rested till it was revived by the treaty of Ghent, in the year 1814. By the fifth article of that treaty it was provided, that each party should appoint a com-

Digitized by Google

missioner, and that those two should have power to ascertain and determine the boundary line, from the source of the St. Croix to the St. Lawrence River, according to the treaty of 1783; and if these commissioners could not agree, they were to state their grounds of difference, and the subject was to be referred to the arbitration of some friendly sovereign or state, to be afterwards agreed upon by the two governments. The two commissioners were appointed, explored the country, and examined the boundary, but could not agree.

In the year 1823, under the administration of Mr. Monroe, negotiations were commenced with the view of agreeing on an arbitration, and these negotiations terminated in a convention, which was signed in London, on the 29th of September, 1827, under the administration of Mr. Adams. By this time, collisions had already begun on the borders, notwithstanding it had been understood that neither party should exercise exclusive possession pending the negotiation. Mr. Adams, in his message of the 8th of December, 1827, after stating the conclusion of the convention for arbitration, adds: —

"While these conventions have been pending, incidents have occurred of conflicting pretensions, and of a dangerous character, upon the territory itself in dispute between the two nations. By a common understanding between the governments, it was agreed that no exercise of exclusive jurisdiction by either party, while the negotiation was pending, should change the state of the question of right to be definitely settled. Such collision has, nevertheless, recently taken place, by occurrences the precise character of which has not yet been ascertained."

The King of the Netherlands was appointed arbitrator under this convention, and he made his award on the 10th of January, 1831. This award was satisfactory to neither party; it was rejected by both, and so the whole matter was thrown back upon its original condition.

This happened during the first term of General Jackson's administration. He immediately addressed himself to new efforts for the adjustment of the controversy. His energy and diligence have both been much commended by his friends; and they have not been disparaged by his opponents. He called to his aid, in the Department of State, successively, Mr. Van Buren, Mr. Livingston, Mr. McLane, and Mr. Forsyth.

Digitized by Google

Now, Mr. President, let us see what progress General Jackson made, with the assistance of these able and skilful negotiators, in this highly important business. Why, Sir, the whole story is told by reference to his several annual messages. In his fourth annual message, of December, 1832, he says: "The question of our northeastern boundary still remains unsettled." In December, 1833, he says: "The interesting question of our northeastern boundary remains still undecided. A negotiation, however, upon that subject, has been renewed since the close of the last Congress." In December, 1834, he says: "The question of the northeastern boundary is still pending with Great Britain, and the proposition made, in accordance with the resolution of the Senate, for the establishment of a line according to the treaty of 1783, has not been accepted by that government. Believing that every disposition is felt on both sides to adjust this perplexing question to the satisfaction of all the parties interested in it, the hope is yet indulged that it may be effected on the basis of that proposition." In December, 1835, a similar story is rehearsed. "In the settlement of the question of the northeastern boundary," says President Jackson, "little progress has been made. Great Britain has declined acceding to the proposition of the United States, presented in accordance with the resolution of the Senate, unless certain preliminary conditions are admitted, which I deemed incompatible with a satisfactory and rightful adjustment of the controversy." And in his last message the President gives an account of all his efforts, and all his success, in regard to this most important point in our foreign relations, in these words: "I regret to say, that many questions of an interesting nature, at issue with other powers, are yet unadjusted; among the most prominent of these is that of the northeastern boundary. With an undiminished confidence in the sincere desire of his Britannic Majesty's government to adjust that question, I am not yet in possession of the precise grounds upon which it proposes a satisfactory adjustment."

With all his confidence, so often repeated, in the sincere desire of England to adjust the dispute, with all the talents and industry of his successive cabinets, this question, admitted to be the most prominent of all those on which we were at issue with foreign powers, had not advanced one step since the rejection of

Digitized by Google

the award of the King of the Netherlands, nor did General Jackson know the grounds upon which a satisfactory adjustment was to be expected. All this is undeniably true; and it was all admitted to be true by Mr. Van Buren when he came into office; for in his first annual message he says: —

"Of pending questions the most important is that which exists with the government of Great Britain in respect to our northeastern boundary. It is with unfeigned regret that the people of the United States must look back upon the abortive efforts made by the executive for a period of more than half a century to determine what no nation should suffer long to remain in dispute, the true line which divides its possessions from those of other powers. The nature of the settlements on the borders of the United States, and of the neighboring territory, was for a season such, that this, perhaps, was not indispensable to a faithful performance of the duties of the federal government.

"Time has, however, changed this state of things, and has brought about a condition of affairs in which the true interests of both countries imperatively require that this question should be put at rest. It is not to be disguised, that, with full confidence, often expressed, in the desire of the British government to terminate it, we are apparently as far from its adjustment as we were at the time of signing the treaty of peace in 1783. . . . . The conviction, which must be common to all, of the injurious consequences that result from keeping open this irritating question, and the certainty that its final settlement cannot be much longer deferred, will, I trust, lead to an early and satisfactory adjustment. At your last session, I laid before you the recent communications between the two governments, and between this government and that of the State of Maine, in whose solicitude concerning a subject in which she has so deep an interest every portion of the Union participates."

Now, Sir, let us pause and consider this. Here we are, fifty-three years from the date of the treaty of peace, and the boundary not yet settled. General Jackson has tried his hand at the business for five years, and has done nothing. He cannot make the thing move. And why not? Do he and his advisers want skill and energy, or are there difficulties in the nature of the case not to be overcome till some wiser course of proceeding shall be adopted? Up to this time not one step of progress has been made This is admitted, and is, indeed, undeniable.

Well, Sir, Mr. Van Buren then began his administration, under the deepest conviction of the importance of the question,

Digitized by Google

in the fullest confidence in the sincerity of the British government, and with the consciousness that the solicitude of Maine concerning the subject was a solicitude in which every portion of the Union participated.

And now, Sir, what did he acccomplish? What progress did he make? What step forward did he take, in the whole course of his administration? Seeing the full importance of the subject, addressing himself to it, and not doubting the just disposition of England, I ask again, What did he do? What advance did he make? Sir, not one step, in his whole four years. Or rather, if he made any advance at all, it was an advance backward; for, undoubtedly, he left the question in a much worse condition than he found it, not only on account of the disturbances and outbreaks which had taken place on the border, for the want of an adjustment, and which disturbances themselves had raised new and difficult questions, but on account of the intricacies, and complexities, and perplexities, in which the correspondence had become involved. The subject was entangled in meshes, which rendered it far more difficult to proceed with the question than if it had been fresh and unembarrassed.

I must now ask the Senate to indulge me in something of a more extended and particular reference to proofs and papers, than is in accordance with my general habits in debate; because I wish to present to the Senate, and to the country, the grounds of what I have just said.

Let us, accordingly, follow the administration of Mr. Van Buren, from his first message, and see how this important matter fared in his hands.

On the 20th of March, 1838, he sent a message to the Senate, with a correspondence between Mr. Fox and Mr. Forsyth. In this correspondence Mr. Fox says: —

"The United States government have proposed two modes in which such a commission might be constituted; first, that it might consist of commissioners, named in equal numbers by each of the two governments, with an umpire to be selected by some friendly European power. Secondly, that it might be entirely composed of scientific Europeans, to be selected by a friendly sovereign, and might be accompanied, in its operations, by agents of the two different parties, in order that such agents might give to the commissioners assistance and information.

. . . . .

Digitized by Google

"Her Majesty's government have themselves already stated that they have little expectation that such a commission could lead to any useful result, and that they would, on that account, be disposed to object to it; and if her Majesty's government were now to agree to appoint such a commission, it would only be in compliance with the desire so strongly expressed by the government of the United States, and in spite of doubts, which her Majesty's government still continue to entertain, of the efficacy of the measure."

To this Mr. Forsyth replies, that he perceives, with feelings of deep disappointment, that the answer to the propositions of the United States is so indefinite, as to render it impracticable to ascertain, without further discussion, what are the real wishes and intentions of her Majesty's government. Here, then, a new discussion arises, to find out, if it can be found out, what the parties mean. Meantime, Mr. Forsyth writes a letter of twenty or thirty pages to the Governor of Maine, concluding with a suggestion that his Excellency should take measures to ascertain the sense of the State of Maine with respect to the expediency of a conventional line. This correspondence repeats the proposition of a joint exploration, by commissioners, and Mr. Fox accedes to it, in deference to the wishes of the United States, but with very little hope that any good will come of it.

This is the result of one whole year's work. Mr. Van Buren sums it up thus, in his message of December, 1838: —

"With respect to the northeastern boundary of the United States, no official correspondence between this government and that of Great Britain has passed since that communicated to Congress towards the close of their last session. The offer to negotiate a convention for the appointment of a joint commission of survey and exploration, I am, however, assured, will be met by her Majesty's government in a conciliatory and friendly spirit, and instructions to enable the British minister here to conclude such an arrangement will be transmitted to him without needless delay."

We may now look for instructions to Mr. Fox, to conclude an arrangement for a joint commission of survey and exploration. Survey and exploration! As if there had not already been enough of both! But thus terminates 1838, with a hope of coming to an agreement for a survey! Great progress this, surely!

Digitized by Google

And now we come to 1839. And what, Sir, think you, was the product of diplomatic fertility and cultivation in the year 1839? Sir, the harvest was one *project*, and one *counter-project*. On the 20th of May, Mr. Fox sent to Mr. Forsyth a draft of a convention for a joint exploration, by commissioners, the commissioners to make report to their respective governments. This was the British *project*.

On the 29th of July, Mr. Forsyth sent to Mr. Fox a *counter-project*, embracing the principle of arbitration. By this, if the commissioners did not agree, a reference was to be had to three persons, selected by three friendly sovereigns or states; and these arbitrators might order another survey. Here the parties, apparently fatigued with their efforts, paused; and the labors of the year are thus rehearsed and recapitulated by Mr. Van Buren at the end of the season: —

"For the settlement of our northeastern boundary, the proposition promised by Great Britain, for a commission of exploration and survey, has been received, and a counter-project, including also a provision for the certain and final adjustment of the limits in dispute, is now before the British government for its consideration. A just regard to the delicate state of this question, and a proper respect for the natural impatience of the State of Maine, not less than a conviction that the negotiation has been already protracted longer than is prudent on the part of either government, have led me to believe that the present favorable moment should on no account be suffered to pass without putting the question for ever at rest. I feel confident that the government of her Britannic Majesty will take the same view of this subject, as I am persuaded it is governed by desires equally strong and sincere for the amicable termination of the controversy."

Here, Sir, in this "delicate state of the question," all things rested till the next year.

Early after the commencement of the warm weather, in 1840, the industrious diplomatists resumed their severe and rigorous labors, and on the 22d of June, 1840, Mr. Fox writes thus to Mr. Forsyth: —

"The British government and the government of the United States agreed, two years ago, that a survey of the disputed territory, by a joint commission, would be the measure best calculated to elucidate and solve the questions at issue. The President proposed such a commission, and

Digitized by Google

her Majesty's government consented to it; and it was believed by her Majesty's government, that the general principles upon which the commission was to be guided in its local operations had been settled by mutual agreement, arrived at by means of a correspondence which took place between the two governments in 1837 and 1838. Her Majesty's government accordingly transmitted, in April of last year, for the consideration of the President, a draft of the convention, to regulate the proceedings of the proposed convention.

"The preamble of that draft recited, textually, the agreement that had been come to by means of notes which had been exchanged between the two governments; and the articles of the draft were framed, as her Majesty's government considered, in strict conformity with that agreement.

"But the government of the United States did not think proper to assent to the convention so proposed.

"The United States government did not, indeed, allege that the proposed convention was at variance with the result of the previous correspondence between the two governments; but it thought that the convention would establish a commission of 'mere exploration and survey'; and the President was of opinion, that the step next to be taken by the two governments should be to contract stipulations, bearing upon the face of them the promise of a final settlement, under some form or other, and within a reasonable time.

"The United States government accordingly transmitted to the undersigned, for communication to her Majesty's government, in the month of July last, a counter-draft of a convention, varying considerably in some parts (as the Secretary of State of the United States admitted, in his letter to the undersigned of the 29th of July last) from the draft proposed by Great Britain.

. . . . .

"There was, undoubtedly, one essential difference between the British draft and the American counter-draft. The British draft contained no provision embodying the principle of arbitration. The American counter-draft did contain such a provision. The British draft contained no provision for arbitration, because the principle of arbitration had not been proposed on either side during the negotiations upon which that draft was founded; and because, moreover, it was understood, at that time, that the principle of arbitration would be decidedly objected to by the United States. But as the United States government have now expressed a wish to embody the principle of arbitration in the proposed convention, her Majesty's government are perfectly willing to accede to that wish.

"The undersigned is accordingly instructed to state officially to Mr.

Digitized by Google

Forsyth, that her Majesty's government consent to the two principles which form the main foundation of the American counter-draft; namely, first, that the commission to be appointed shall be so constituted as necessarily to lead to a final settlement of the questions of boundary at issue between the two countries; and secondly, that, in order to secure such a result, the convention by which the commission is to be created shall contain a provision for arbitration upon points as to which the British and American commission may not be able to agree.

"The undersigned is, however, instructed to add, that there are many matters of detail in the American counter-draft which her Majesty's government cannot adopt.

"The undersigned will be furnished from his government, by an early opportunity, with an amended draft, in conformity with the principles above stated, to be submitted to the consideration of the President. And the undersigned expects to be at the same time furnished with instructions to propose to the government of the United States a fresh, local, and temporary convention, for the better prevention of incidental border collisions within the disputed territory during the time that may be occupied in carrying through the operations of survey or arbitration."

And on the 26th of June, Mr. Forsyth replies, and says: —

"That he derives great satisfaction from the announcement that her Majesty's government do not relinquish the hope, that the sincere desire which is felt by both parties to arrive at an amicable settlement will at length be attended with success; and from the prospect held out by Mr. Fox of his being accordingly furnished, by an early opportunity, with the draft of a proposition amended in conformity with the principles to which her Majesty's government has acceded, to be submitted to the consideration of this government."

On the 28th of July, 1840, the British amended draft came. This draft proposed that commissioners should be appointed, as before, to make exploration; that umpires or arbitrators should be appointed by three friendly sovereigns, and that the arbitration should sit in Germany, at Frankfort on the Maine. And the draft contains many articles of arrangement and detail, for carrying the exploration and arbitration into effect.

At the same time, Mr. Fox sends to Mr. Forsyth the report of two British commissioners, Messrs. Mudge and Featherstonhaugh, who had made an *ex parte* survey in 1839. And a most extraordinary report it was. These gentlemen had discovered, that, up to that time, nobody had been right. They invented a

Digitized by Google

new line of highlands, cutting across the waters of the Aroostook and other streams emptying into the St. John, which, in every previous examination and exploration, had escaped all mortal eyes.

Here, then, we had one *project* more for exploration and arbitration, together with a report from the British commissioners of survey, placing the British claim where it had never been placed before. And on the 13th of August, there comes again, as a matter of course, from Mr. Forsyth, another *counter-project.* Lord Palmerston is not richer in projects than Mr. Forsyth is in counter-projects. There is always a Roland for an Oliver. This counter-project of the 13th of August, 1840, was drawn in the retirement of Albany. It consists of eighteen articles, which it is hardly necessary to describe particularly. Of course, it proceeds on the two principles already agreed on, of exploration and arbitration; but in all matters of arrangement and detail it was quite different from Lord Palmerston's draft, communicated by Mr. Fox.

And here the rapid march of diplomacy came to a dead halt. Mr. Fox found so many and such great changes proposed to the British draft, that he did not incline to discuss them. He did not believe the British government would ever agree to Mr. Forsyth's plan, but he would send it home, and see what could be done with it.

Thus stood matters at the end of 1840, and in his message, at the meeting of Congress in December of that year, his valedictory message, Mr. Van Buren thus describes the condition of things which he found to be the result of his four years of negotiation.

"In my last annual message you were informed that a proposition for a commission of exploration and survey, promised by Great Britain, had been received, and that a counter-project, including also a provision for the certain and final adjustment of the limits in dispute, was then before the British government for its consideration. The answer of that government, accompanied by additional propositions of its own, was received through its minister here, since your separation. These were promptly considered; such as were deemed correct in principle, and consistent with a due regard to the just rights of the United States and of the State of Maine, concurred in; and the reasons for dissenting from the residue, with an additional suggestion on our part, communicated by

Digitized by Google

the Secretary of State to Mr. Fox. That minister, not feeling himself sufficiently instructed upon some of the points raised in the discussion, felt it to be his duty to refer the matter to his own government for its further decision."

And now, Sir, who will deny that this is a very promising condition of things, to exist FIFTY-SEVEN years after the conclusion of the treaty!

Here is the British project for exploration; then the American counter-project for exploration, to be the foundation of arbitration. Next, the answer of Great Britain to our counter-project, stating divers exceptions and objections to it, and with sundry new and additional propositions of her own. Some of these were concurred in, but others dissented from, and other additional suggestions on our part were proposed; and all these concurrences, dissents, and new suggestions were brought together and incorporated into Mr. Forsyth's last labor of diplomacy, at least his last labor in regard to this subject, his counter-project of the 13th of August, 1840. That counter-project was sent to England, to see what Lord Palmerston could make of it. It fared in the foreign office just as Mr. Fox had foretold. Lord Palmerston would have nothing to do with it. He would not answer it; he would not touch it; he gave up the negotiation in apparent despair. Two years before, the parties had agreed on the principle of joint exploration, and the principle of arbitration. But in their subsequent correspondence, on matters of detail, modes of proceeding, and subordinate arrangements, they had, through the whole two years, constantly receded farther, and farther, and farther from each other. They were flying apart; and, like two orbs moving in opposite directions, could only meet after they should have traversed the whole circle.

But this exposition of the case does not describe, by any means, all the difficulties and embarrassments arising from the unsettled state of the controversy. We all remember the troubles of 1839. Something like a border war had broken out. Maine had raised an armed *civil posse;* she fortified the line, or points on the line, of territory, to keep off intruders and to defend possession. There was Fort Fairfield, Fort Kent, and I know not what other fortresses, all memorable in history. The legislature of Maine had placed eight hundred thousand dollars at the discretion of the Governor, to be used for the military

Digitized by Google

defence of the State. Major-General Scott had repaired to the frontier, and under his mediation an agreement, a sort of treaty, respecting the temporary possession by the two parties of the territory in dispute, was entered into between the Governors of Maine and New Brunswick. But as it could not be foreseen how long the principal dispute would be protracted, Mr. Fox, as has already been seen, wrote home for instructions for another treaty, a treaty of less dignity, a collateral treaty, a treaty to regulate the terms of possession, and the means of keeping the peace of the frontier, while the number of years should roll away, necessary, first, to spin out the whole thread of diplomacy in framing a convention; next, for three or four years of joint exploration of seven hundred miles of disputed boundary in the wilderness of North America; and, finally, to learn the results of an arbitration which was to sit at Frankfort on the Maine, composed of learned doctors from the German universities.

Really, Sir, is not this a most delightful prospect? Is there not here as beautiful a labyrinth of diplomacy as one could wish to look at, of a summer's day? Would not Castlereagh and Talleyrand, Nesselrode and Metternich, find it an entanglement worthy the labor of their own hands to unravel? Is it not apparent, Mr. President, that at this time the adjustment of the question, by this kind of diplomacy, if to be reached by any vision, required telescopic sight? The country was settling; individual rights were getting into collision; it was impossible to prevent disputes and disturbances; every consideration required that whatever was to be done should be done quickly; and yet every thing, thus far, had waited the sluggish flow of the current of diplomacy. *Labitur et labetur.*

I have already stated, that on the receipt of Mr. Forsyth's last counter-plan, or counter-project, Lord Palmerston, at last, paused. The British government appears to have made up its mind that nothing was to be expected, at that time, from pursuing further this battledore play of *projets* and *contre-projets.* What occurred in England we collect from the published debates of the House of Commons. From these we learn, that after General Harrison's election, and, indeed, after his death, and in the first year of Mr. Tyler's Presidency, Lord Palmerston wrote to Mr. Fox as follows: —

"Her Majesty's government received, with very great regret, the sec-

Digitized by Google

ond American counter-draft of a convention for determining the boundary between the United States and the British North American Provinces, which you transmitted to me last autumn, in your despatch of the 15th of August, 1840, because the counter-draft contained so many inadmissible propositions, that it plainly showed that her Majesty's government could entertain no hope of concluding any arrangement on this subject with the government of Mr. Van Buren, and that there was no use in taking any further steps in the negotiations till the new President should come into power. Her Majesty's government had certainly been persuaded that a draft which, in pursuance of your instructions, you presented to Mr. Forsyth, on the 28th of July, 1840, was so fair in its provisions, and so well calculated to bring the differences between the two governments about the boundary to a just and satisfactory conclusion, that it would have been at once accepted by the government of the United States; or that, if the American government had proposed to make any alterations in it, those alterations would have related merely to matters of detail, and would not have borne upon any essential points of the arrangement; and her Majesty's government were the more confirmed in this hope, because almost all the main principles of the arrangement which that draft was intended to carry into execution had, as her Majesty's government conceived, been either suggested, or agreed to, by the United States government itself."

Lord Palmerston is represented to have said, in this despatch, of Mr. Forsyth's counter-project, that he "cannot agree" to the preamble; that he "cannot consent" to the second article; that he "must object to the fourth article"; that the "seventh article imposed incompatible duties"; and to every article there was an objection, stated in a different form, until he reached the tenth, and as to that, "none could be more inadmissible."

This was the state of the negotiation a few days before Lord Palmerston's retirement. But, nevertheless, his Lordship would make one more attempt, now that there was a new administration here, and he would submit "new proposals." And what were they?

"And what does the House think," said Sir Robert Peel, in the House of Commons, "were the noble Lord's proposals in that desperate state of circumstances? The proposal of the noble Lord, after fifty-eight years of controversy, submitted by him to the American government for the purpose of a speedy settlement, was that commissioners should be nominated on both sides; that they should attempt to make settlement of this long disputed question; and then, if that failed, that

Digitized by Google

the king of Prussia, the king of Sardinia, and the king of Saxony were to be called in, not to act as umpires, but they were each to be requested to name a scientific man, and that these three members of a scientific commission should proceed to arbitrate. Was there ever a proposition like this suggested for the arrangement of a question on which two countries had differed for fifty-eight years? And this, too, was proposed after the failure of the arbitration on the part of the king of Holland, and when they had had their commission of exploration in vain. And yet, with all this, there were to be three scientific men, foreign professors, one from Prussia, one from Sardinia, and one from Saxony! To do what? And where were they to meet; or how were they to come to a satisfactory adjustment?"

It was asked in the House of Commons, not inaptly, What would the people of Maine think, when they should read that they were to be visited by three learned foreigners, one from Prussia, one from Saxony, and one from Sardinia? To be sure, what would they think, when they should see three learned foreign professors, each speaking a different language, and none of them the English or American tongue, among the swamps and morasses of Maine in summer, or wading through its snows in winter, — on the Allegash, the Maguadavic, or among the moose deer, on the precipitous and lofty shores of Lake Pohenagamook, — and for what? To find where the division was, between Maine and New Brunswick! Instructing themselves by these labors, that they might repair to Frankfort on the Main, and there hold solemn and scientific arbitration on the question of a boundary line, in one of the deepest wildernesses of North America!

Sir, I do not know what might have happened, if this project had gone on. Possibly, Sir, but that your country has called you to higher duties, you might now have been at Frankfort on the Main, the advocate of our cause before the scientific arbitration. If not yourself, some one of the honorable members here very probably would have been employed in attempting to utter in the heart of Germany the almost unspeakable names bestowed by the Northeastern Indians on American lakes and streams. Mr. Fox, it is said, on reading his despatch, replied, with characteristic promptitude and good sense, "For Heaven's sake, save us from the philosophers! Have sovereigns, if you please, but no professional men."

Digitized by Google

But Mr. Fox was instructed, as it now appears, to renew his exertions to carry forward the arbitration. "Let us," said Lord Palmerston, in writing to him, "let us consider the American *contre projet* as unreasonable, undeserving of answer, as withdrawn from consideration, and now submit my original *projet* to Mr. Webster, the new Secretary of State, and persuade him it is reasonable."

But with all respect, Sir, to Lord Palmerston, Mr. Webster was not to be so persuaded; that is to say, he was not to be persuaded that it was reasonable, or wise, or prudent, to pursue the negotiation in this form further. He hoped to live long enough to see the northeastern boundary settled; but that hope was faint, unless he could rescue the question from the labyrinth of projects and counter-projects, explorations and arbitrations, in which it was involved. He could not reasonably expect that he had another half-century of life before him.

Mr. President, it is true that I viewed the case as hopeless, without an entire change in the manner of proceeding. I found the parties already "in wandering mazes lost." I found it quite as tedious and difficult to trace the thread of this intricate negotiation, as it would be to run out the line of the Highlands itself. One was quite as full as the other of deviations, abruptnesses, and perplexities. And having received the President's* authority, I did say to Mr. Fox, as has been stated in the British Parliament, that I was willing to attempt to settle the dispute by agreeing on a conventional line, or line by compromise.

Mr. President, I was fully aware of the difficulty of the undertaking. I saw it was a serious affair to call on Maine to come into an agreement, by which she might subject herself to the loss of territory which she regarded as clearly her own. The question touched her proprietary interests, and, what was more delicate, it touched the extent of her jurisdiction. I knew well her extreme jealousy and high feeling on this point.† But I be-

* Mr. Tyler.

† It is now well known, that in 1832 an agreement was entered into between some of the heads of department at Washington, namely, Messrs. Livingston, McLane, and Woodbury, under the direction of President Jackson, on the part of the United States, and Messrs. Preble, Williams, and Emery, on the part of the government of Maine, by which it was stipulated that Maine should surrender to the United States the territory which she claimed beyond the line designated by the King of the Netherlands, and receive, as an indemnity, ONE MILLION of acres of the public lands, to be selected by herself, in Michigan. The

Digitized by Google

lieved in her patriotism, and in her willingness to make sacrifices for the good of the country. I trusted, too, that her own good sense would lead her, while she doubtless preferred the strict execution of the treaty, as she understood it, to any line by compromise, to see, nevertheless, that the government of the United States was already pledged to arbitration, by its own proposition and the agreement of Great Britain; that this arbitration might not be concluded and finished for many years, and that, after all, the result might be doubtful. With this reliance on the patriotism and good sense of Maine, and with the sanction of the President, I was willing to make an effort to establish a boundary by direct compromise and agreement, by acts of the parties themselves, which they could understand and judge of for themselves, by a proceeding which left nothing to the future judgment of others, and by which the controversy could be settled in six months. And, Sir, I leave it to the Senate to-day, and the country always, to say how far this offer and this effort were wise or unwise, statesmanlike or unstatesmanlike, beneficial or injurious.

Well, Sir, in the autumn of 1841 it was known in England to be the opinion of the American government, that it was not advisable to prosecute further the scheme of arbitration; that that government was ready to open a negotiation for a conventional line of boundary; and a letter from Mr. Everett, dated on the 31st of December, announced the determination of the British government to send a special minister to the United States, authorized to settle all matters in difference, and the selection of Lord Ashburton for that trust. This letter was answered, on the 29th of January, by an assurance that Lord Ashburton would be received with the respect due to his government and to himself. Lord Ashburton arrived in Washington on the 4th of April, 1842, and was presented to the President on the 6th.

On the 11th, a letter was written from the Department of State to the Governor of Maine, announcing his arrival, and his declaration that he had authority to treat for a conventional

existence of this *treaty* was not known for some time, and it was never ratified by the high contracting parties.

Digitized by Google

line of boundary, or line by agreement, on mutual conditions, considerations, and equivalents.*

The Governor of Maine was informed, that,

"Under these circumstances, the President has felt it to be his duty to call the serious attention of the governments of Maine and Massachusetts to the subject, and to submit to those governments the propriety of their coöperation, to a certain extent and in a certain form, in an endeavor to terminate a controversy already of so long duration, and which seems very likely to be still considerably further protracted before the desired end of a final adjustment shall be attained, unless a shorter course of arriving at that end be adopted than such as has heretofore been pursued, and as the two governments are still pursuing. . . . . .

"The opinion of this government upon the justice and validity of the American claim has been expressed at so many times, and in so many forms, that a repetition of that opinion is not necessary. But the subject is a subject in dispute. The government has agreed to make it matter of reference and arbitration; and it must fulfil that agreement, unless another mode of settling the controversy should be resorted to with the hope of producing a speedier decision. The President proposes, then, that the governments of Maine and Massachusetts should severally appoint a commissioner or commissioners, empowered to confer with the authorities of this government upon a conventional line, or line by agreement, with its terms, conditions, considerations, and equivalents, with an understanding that no such line will be agreed upon without the assent of such commissioners.

"This mode of proceeding, or some other which shall express assent beforehand, seems indispensable, if any negotiation for a conventional line is to be attempted; since, if happily a treaty should be the result of the negotiation, it can only be submitted to the Senate of the United States for ratification."

A similar letter was addressed to the Governor of Massachusetts. The Governor of Maine, now an honorable member of this house,† immediately convoked the legislature of Maine, by proclamation. In Massachusetts the probable exigency had been anticipated, and the legislature had authorized the Governor, now my honorable colleague here,‡ to appoint commissioners on behalf of the Commonwealth. The legislature of Maine adopted resolutions to the same effect, and duly elected four commissioners from among the most eminent persons in the

* See the letter, in Diplomatic Papers.
† Mr. Fairfield. ‡ Mr. John Davis.

Digitized by Google

State, of all parties; and their unanimous consent to any proposed line of boundary was made indispensable. Three distinguished public men, known to all parties, and having the confidence of all parties in any question of this kind, were appointed commissioners by the Governor of Massachusetts.

Now, Sir, I ask, Could any thing have been devised fairer, safer, and better for all parties than this? The States were here by their commissioners; Great Britain was here by her special minister, and the Canadian and New Brunswick authorities within reach of the means of consultation; and the government of the United States was ready to proceed with the important duties it had assumed. I put the question to any man of sense, whether, supposing the real object to be a fair, just, convenient, prompt settlement of the boundary dispute, this state of things was not more promising than all the schemes of exploration and arbitration, and all the tissue of projects and counter-projects, with which the two governments had been making themselves strenuously idle for so many years. Nor was the promise not fulfilled.

It has been said, absurdly enough, that Maine was coerced into a consent to this line of boundary. What was the coercion? Where was the coercion? On the one hand, she saw an immediate and reasonable settlement; on the other hand, a proceeding sure to be long, and its result seen to be doubtful. Sir, the coercion was none other than the coercion of duty, good sense, and manifest interest. The right and the expedient united, to compel her to give up the wrong, the useless, the inexpedient.

Maine was asked to judge for herself, to decide on her own interests, not unmindful, nevertheless, of those patriotic considerations which should lead her to regard the peace and prosperity of the whole country. Maine, it has been said, was persuaded to part with a portion of territory by this agreement. Persuaded! Why, Sir, she was invited here to make a compromise, to give and to take, to surrender territory of very little value for equivalent advantages, of which advantages she was herself to be the uncontrolled judge. Her commissioners needed no guardians. They knew her interest. They knew what they were called on to part with, and the value of what they could obtain in exchange. They knew, especially, that on the one hand was

Digitized by Google

immediate settlement, on the other, ten or fifteen years more of delay and vexation. Sir, the piteous tears shed for Maine, in this respect, are not her own tears. They are the crocodile tears of pretended friendship and party sentimentality. Lamentations and griefs have been uttered in this Capitol about the losses and sacrifices of Maine, which nine tenths of the people of Maine laugh at. Nine tenths of her people, to this day, heartily approve the treaty. It is my full belief, that there are not, at this moment, fifty respectable persons in Maine who would now wish to see the treaty annulled, and the State replaced in the condition in which it was, with Mr. Van Buren's arbitration before it, and inextricably fixed upon it, by the plighted faith of this government, on the 4th of March, 1841.

Sir, the occasion called for the revision of a very long line of boundary; and what complicated the case, and rendered it more difficult, was, that the territory on the side of the United States belonged to no less than four different States. The establishment of the boundary was to affect Maine, New Hampshire, Vermont, and New York. All these States were to be satisfied, if properly they could be. Maine, it is true, was principally concerned. But she did not expect to retain all that she called her own, and yet get more, and still call it compromise and an exchange of equivalents. She was not so absurd. I regret some things which occurred; particularly, that, while the commissioners of Maine assented, unanimously, to the boundary proposed, on the equivalents proposed, yet, in the paper in which they express that assent, they seem to argue against the act which they were about to perform. This, I think, was a mistake. It had an awkward appearance, and probably gave rise to whatever of dissatisfaction has been expressed in any quarter.

And now, Sir, I am prepared to ask whether the proceeding adopted, that is, an attempt to settle this long controversy by the assent of the States concerned, was not wise and discreet, under the circumstances of the case? Sir, the attempt succeeded, and it put an end to a controversy which had subsisted, with no little inconvenience to the country and danger to its peace, through every administration from that of General Washington to that of Mr. Van Buren. It is due to truth and to the occasion to say, that there were difficulties and obstacles in the way of this settlement, which had not been overcome under the ad-

Digitized by Google

ministration of Washington, or the elder Adams, or Mr. Jefferson, or Mr. Madison, or Mr. Monroe, or Mr. John Quincy Adams, or General Jackson, or Mr. Van Buren. In 1842, in the administration of Mr. Tyler, the dispute was settled, and settled satisfactorily.

Sir, whatever may be said to the contrary, Maine was no loser, but an evident gainer, by this adjustment of boundary. She parted with some portion of territory; this I would not undervalue; but certainly most of it was intrinsically worthless. Captain Talcott's report, and other evidence, sufficiently establish that fact.

Maine having, by her own free consent, agreed to part with this portion of territory, received, in the first place, from the treasury of the United States, one hundred and fifty thousand dollars, for her half of the land, a sum which I suppose to be much greater than she would have realized from the sale of it in fifty years. No person, well informed on the subject, can doubt this. In the next place, the United States government paid her for the expenses of her *civil posse* to defend the State, and also for the surveys. On this account she has already received two hundred thousand dollars, and hopes to receive eighty or one hundred thousand dollars more. If this hope shall be realized, she will have received four hundred and fifty thousand dollars in cash.

But Maine, I admit, did not look, and ought not to have looked, to the treaty as a mere pecuniary bargain. She looked at other things than money. She took into consideration that she was to enjoy the free navigation of the River St. John. I thought this a great object at the time the treaty was made; but I had then no adequate conception of its real importance. Circumstances which have since taken place show that its advantages to the State are far greater than I then supposed That river is to be free to the citizens of Maine for the transportation down its stream of all unmanufactured articles whatever. Now what is this River St. John? We have heard a vast deal lately of the immense value and importance of the River Columbia and its navigation; but I will undertake to say, that, for all purposes of human use, the St. John is worth a

Digitized by Google

hundred times as much as the Columbia is, or ever will be. In point of magnitude, it is one of the most respectable rivers on the eastern side of this part of America. It is longer than the Hudson, and as large as the Delaware. And, moreover, it is a river which has a mouth to it, and that, in the opinion of the member from Arkansas,* is a thing of some importance in the matter of rivers. It is navigable from the sea, and by steamboats, to a greater distance than the Columbia. It runs through a good country, and its tributaries afford a communication with the Aroostook valley. I will leave it to the member from Maine to say whether that valley is not one of the finest and most fertile parts of the State. I will leave it not only to him, but to any man at all acquainted with the facts, whether this free navigation of the St. John has not, at once, greatly raised the value of the lands on Fish River, on the Allegash, the Madawaska, and the St. Francis. That whole region has no other outlet, and the value of the lumber which has, during this very year, been floated down that river, is far greater than that of all the furs which have descended from Fort Vancouver to the Pacific.

On this subject I am enabled to speak with authority, for it has so happened that, since the last adjournment of the Senate, I have looked at an official return of the Hudson's Bay Company, showing the actual extent of the fur trade in Oregon, and I find it to be much less than I had supposed. An intelligent gentleman from Missouri estimated the value of that trade, west of the Rocky Mountains, at three hundred thousand dollars annually; but I find it stated in the last publication by Mr. McGregor, of the Board of Trade in England, (a very accurate authority,) that the receipts of the Hudson's Bay Company for furs west of the Rocky Mountains, in 1828, is placed at one hundred and thirty-eight thousand dollars. I do not know, though the member from Missouri is likely to know, whether all these furs are brought to Fort Vancouver; or whether some of them are not sent through the passes in the mountains to Hudson's Bay; or to Montreal, by the way of the north shore of Lake Superior. I suppose this last to be the case. It is stated, however, by the same authority, that the amount of goods

* Mr. Sevier.

Digitized by Google

received at Fort Vancouver, and disposed of in payment for furs, is twenty thousand dollars annually, and no more.

Now, Sir, this right to carry lumber and grain and cattle to the mouth of the River St. John, on equal terms with the British, is a matter of great importance; it brings lands lying on its upper branches, far in the interior, into direct communication with the sea. Those lands are valuable for timber now, and a portion of them are the best in the State for agriculture. The fact has been stated to me, on the best authority, that in the Aroostook valley land is to be found which has yielded more than forty bushels of wheat to the acre, even under the common cultivation of new countries. I must, therefore, think that the commissioners from Maine were quite right in believing that this was an important acquisition for their State, and one worth the surrender of some acres of barren mountains and impenetrable swamps.

But, Mr. President, there is another class of objections to this treaty boundary, on which I wish to submit a few remarks. It has been alleged, that the treaty of Washington ceded very important military advantages on this continent to the British government. One of these is said to be a military road between the two Provinces of New Brunswick and Lower Canada; and the other is the possession of certain heights, well adapted, as is alleged, to military defence. I think the honorable member from New York, farthest from the chair,* said, that by the treaty of Washington a military road was surrendered to England, which she considered as of vital importance to her possessions in America.

Mr. Dix explained that he had not spoken of a "military *road*," but of a portion of territory affording a means of military communication between two of her Provinces.

Well, it is the same thing, and we will see how the matter stands. The honorable member says, that he said a means of military communication, and not a military road. I am not a military man, and therefore may not so clearly comprehend, as that member does, the difference between a military road and a means of military communication; but I will read from the hon-

* Mr Dix.

Digitized by Google

orable member's speech, which I have before me, understood to have been revised by himself. The honorable member says:—

"The settlement of the northeastern boundary, one of the most delicate and difficult that has ever arisen between us, affords a striking evidence of our desire to maintain with her the most friendly understanding. We ceded to her a portion of territory which she deemed of vital importance as a means of military communication between the Canadas and her Atlantic Provinces, and which will give her a great advantage in a contest with us. The measure was sustained by the constituted authorities of the country, and I have no desire or intention to call its wisdom in question. But it proves that we were not unwilling to afford Great Britain any facility she required for consolidating her North American possessions, acting in peace as though war was not to be expected between the two countries. If we had cherished any ambitious designs in respect to them, if we had had any other wish than that of continuing on terms of amity with her and them, this great military advantage would never have been conceded to her.

"On the other hand, I regret to say, that her course towards us has been a course of perpetual encroachment. But, Sir, I will not look back upon what is past for the purpose of reviving disturbing recollections."

I should be very glad if the honorable gentleman would show how England derives so highly important benefits from the treaty in a military point of view, or what proof there is that she so considers the matter.

Mr. Dix here entered into some explanation of the advantage, in a military point of view, supposed to have been gained by Great Britain on the northeastern boundary; and, in confirmation of his opinion, read extracts from notes of debates in the British Parliament.

The passages which the honorable member has read, however pertinent they may be to another question, do not touch the question immediately before us. I understand quite well what was said of the heights; but nobody, so far as I know, ever spoke of this supposed military road, or military communication, as of any importance at all, unless it be in a remark, not very intelligible, in an article ascribed to Lord Palmerston.

I was induced to refer to this subject, Sir, by a circumstance which I have not long been apprised of. Lord Palmerston (if he be the author of certain publications ascribed to him, says that all the important points were given up by Lord Ashburton to the United States. I might here state, too, that Lord Palm-

Digitized by Google

erston called the whole treaty "the Ashburton capitulation," declaring that it yielded every thing that was of importance to Great Britain, and that all its stipulations were to the advantage of the United States, and to the sacrifice of the interests of England. But it is not on such general, and, I may add, such unjust statements, nor on any off-hand expressions used in debate, though in the roundest terms, that this question must turn. He speaks of this military road, but he entirely misplaces it. The road which runs from New Brunswick to Canada follows the north side of the St. John to the mouth of the Madawaska, and then, turning northwest, follows that stream to Lake Temiscoata, and thence proceeds over a depressed part of the Highlands till it strikes the St. Lawrence one hundred and seventeen miles below Quebec. This is the road which has been always used, and there is no other.

I admit that it is very convenient for the British government to possess territory through which they may enjoy a road; it is of great value as an avenue of communication in time of peace; but as a military communication it is of no value at all. What business can an army ever have there? Besides, it is no gorge, no pass, no narrow defile, to be defended by a fort. If a fort should be built there, an army could, at pleasure, make a *detour* so as to keep out of the reach of its guns. It is very useful, I admit, in time of peace. But does not every body know, military man or not, that unless there is a defile, or some narrow place through which troops must pass, and which a fortification will command, that a mere open road must, in time of war, be in the power of the strongest? If we retained by treaty the territory over which the road is to be constructed, and war came, would not the English take possession of it if they could? Would they be restrained by a regard to the treaty of Washington? I have never yet heard a reason adduced why this communication should be regarded as of the slightest possible advantage in a military point of view.

But the circumstance to which I allude is, that, by a map published with the speech of the honorable member from Missouri, made in the Senate, on the question of ratifying the treaty,* this well-known and long-used road is laid down, prob-

* Mr. Benton.

Digitized by Google

ably from the same source of error which misled Lord Palmerston, as following the St. John, on its south side, to the mouth of the St. Francis; thence along that river to its source, and thence, by a single bound, over the Highlands to the St. Lawrence, near Quebec. This is all imagination. It is called the "Valley Road." Valley Road indeed! Why, Sir, it is represented as running over the very ridge of the most inaccessible part of the Highlands! It is made to cross abrupt and broken precipices, two thousand feet high! It is, at different points of its imaginary course, from fifty to a hundred miles distant from the real road.

So much, Mr. President, for the great boon of military communication conceded to England. It is nothing more nor less than a common road, along streams and lakes, and over a country in great part rather flat. It then passes the heights to the St. Lawrence. If war breaks out, we shall take it if we can, and if we need it, of which there is not the slightest probability. It will never be protected by fortifications, and never can be. It will be just as easy to take it from England, in case of war, as it would be to keep possession of it, if it were our own.

In regard to the defence of the heights, I shall dispose of that subject in a few words. There is a ridge of highlands which does approach the River St. Lawrence, although it is not true that it overlooks Quebec; on the contrary, the ridge is at the distance of thirty or forty miles.

It is very natural that military men in England, or indeed in any part of Europe, should have attached great importance to these mountains. The great military authority of England, perhaps the highest living military authority, had served in India and on the European continent, and it was natural enough that he should apply European ideas of military defences to America. But they are quite inapplicable. Highlands such as these are not ordinarily found on the great battle-fields of Europe. They are neither Alps nor Pyrenees; they have no passes through them, nor roads over them, and never will have.

Then there was another cause of misconception on this subject in England. In 1839 an *ex parte* survey was made, as I have said, by Colonel Mudge and Mr. Featherstonhaugh, if survey it could be called, of the region in the North of Maine, for the use of the British government. I dare say Colonel Mudge is an in-

Digitized by Google

telligent and respectable officer; how much personal attention he gave the subject I do not know. As to Mr. Featherstonhaugh, he has been in our service, and his authority is not worth a straw. These two persons made a report, containing this very singular statement: That in the ridge of highlands nearest to the St. Lawrence there was a great *hiatus* in one particular place, a gap of thirty or forty miles, in which the elevation did not exceed fifty feet. This is certainly the strangest statement that ever was made.* Their whole report gave but one measurement by the barometer, and that measurement stated the height of twelve hundred feet. A survey and map were made the following year by our own commissioners, Messrs. Graham and Talcott, of the Corps of Topographical Engineers, and Professor Renwick, of Columbia College. On this map, the very spot where this gap was said to be situated is dotted over thickly with figures showing heights varying from twelve hundred to two thousand feet, and forming one rough and lofty ridge, marked by abrupt and almost perpendicular precipices. When this map and report of Messrs. Mudge and Featherstonhaugh were published, the British authorities saw that this alleged gap was laid down as an indefensible point, and it was probably on that ground alone that they desired a line east of that ridge, in order that they might guard against access of a hostile power from the United States. But in truth there is no such gap; our engineers proved this, and we quite well understood it when agreeing to the boundary. Any man of common sense, military or not, must therefore now see, that nothing can be more imaginary or unfounded than the idea that any importance attaches to the possession of these heights.

Sir, there are two old and well-known roads to Canada; one by way of Lake Champlain and the Richelieu, to Montreal. This is the route which armies have traversed so often, in different periods of our history. The other leads from the Kennebec River to the sources of the Chaudière and the Du Loup, and so to Quebec. This last was the track of Arnold's march. East of this, there is no practicable communication for troops between Maine and Canada till we get to the Madawaska. We had before us a report from General Wool, while this treaty

* See page 44 of their printed report.

Digitized by Google

was under negotiation, in which that intelligent officer declares that it is perfectly idle to think of fortifying any point east of this road. East of Arnold's track it is a mountain region, through which no army can possibly pass into Canada. With General Wool was associated, in this examination, Major Graham, whom I have already mentioned. His report to General Wool, made in the year 1838, clearly points out the Kennebec and Chaudière road as the only practicable route for an army between Maine and Quebec. He was subsequently employed as a commissioner in the *ex parte* surveys of the United States. Being an engineer officer of high character for military knowledge and scientific accuracy, his opinion had the weight it ought to have, and which will be readily given to it by all who know him. His subsequent and still more thorough acquaintance with this mountain range, in its whole extent, has only confirmed the judgment which he had previously formed. And, Sir, this avenue to Canada, this practicable avenue, and only practicable avenue east of that by way of Lake Champlain, is left now just as it was found by the treaty. The treaty does not touch it, nor in any manner affect it.

But I must go further. I said that the treaty of Washington was a treaty of equivalents, in which it was expected that each party should give something and receive something. I am now willing to meet any gentleman, be he a military man or not, who will make the assertion, that, in a military point of view, the greatest advantages derived from that treaty are on the side of Great Britain. It was on this point that I wished to say something in reply to an honorable member from New York,* who will have it that in this treaty England supposes that she got the advantage of us. Sir, I do not think the military advantages she obtained by it are worth a rush. But even if they were, if she had obtained advantages of the greatest value, would it not have been fair in the member from New York to state, nevertheless, whether there were not equivalent military advantages obtained, on our side, in other parts of the line? Would it not have been candid and proper in him, when adverting to the military advantages obtained by England, in a communication between New Brunswick and Canada, if such

* Mr. Dickinson.

Digitized by Google

advantages there were, to have stated, on the other hand, and at the same time, our recovery of Rouse's Point, at the outlet of Lake Champlain? an advantage which overbalanced all others, forty times told. I must be allowed to say, that I certainly never expected that a member from New York, above all other men, should speak of this treaty as conferring military advantages on Great Britain without full equivalents. I listened to it, I confess, with utter astonishment. A distinguished Senator from that State* saw at the time, very clearly, the advantage gained by this treaty to the United States and to New York. He voted willingly for its ratification, and he never will say that Great Britain obtained a balance of advantages in a military point of view.

Why, how is the State of New York affected by this treaty? Sir, is not Rouse's Point perfectly well known, and admitted, by every military man, to be the key of Lake Champlain? It commands every vessel passing up or down the lake, between New York and Canada. It had always been supposed that this point lay some distance south of the parallel of 45°, which was our boundary line with Canada, and therefore was within the United States; and, under this supposition, the United States purchased the land, and commenced the erection of a strong fortress. But a more accurate survey having been made in 1818, by astronomers on both sides, it was found that the parallel of 45° ran south of this fortress, and thus Rouse's Point, with the fort upon it, was found to be in the British dominions. This discovery created, as well it might, a great sensation here. None knows this better than the honorable member from South Carolina,† who was then at the head of the Department of War. As Rouse's Point was no longer ours, we sent our engineers to examine the shores of the lake, to find some other place or places which we might fortify. They made a report on their return, saying that there were two other points some distance south of Rouse's Point, one called Windmill Point, on the east side of the lake, and the other called Stony Point, on the west side, which it became necessary now to fortify, and they gave an estimate of the probable expense. When this treaty was in process of negotiation, we called for the opinion of military men

* Mr. Wright. † Mr. Calhoun.

Digitized by Google

respecting the value of Rouse's Point, in order to see whether it was highly desirable to obtain it. We had their report before us, in which it was stated, that the natural and best point for the defence of the outlet of Lake Champlain was Rouse's Point. In fact, any body might see that this was the case who would look at the map. The point projects into the narrowest passage by which the waters of the lake pass into the Richelieu. Any vessel, passing into or out of the lake, must come within point-blank range of the guns of a fortress erected on this point; and it ran out so far that any such vessel must approach the fort, head on, for several miles, so as to be exposed to a raking fire from the battery, before she could possibly bring her broadside to bear upon the fort at all. It was very different with the points farther south. Between them the passage was much wider; so much so, indeed, that a vessel might pass directly between the two, and not be in reach of point-blank shot from either.

Mr. Dickinson of New York here interposed, to ask whether the Dutch line did not give us Rouse's Point.

Certainly not. It gave us a semicircular line, running round the fort, but not including what we had possessed before. And besides, we had rejected the Dutch line, and the whole point now clearly belonged to England. It was all within the British territory.

I was saying that a vessel might pass between Windmill Point and Stony Point, and be without the range of both, till her broadside could be brought to bear upon either of them. The forts would be entirely independent of each other, and, having no communication, could not render each other the least assistance in case of attack. But the military men told us there was no sort of question that Rouse's Point was extremely desirable as a point of military defence. This is plain enough, and I need not spend time to prove it. Of one thing I am certain, that the true road to Canada is by the way of Lake Champlain. That is the old path. I take to myself the credit of having said here, thirty years ago, speaking of the mode of taking Canada, that, when an American woodsman undertakes to fell a tree, he does not begin by lopping off the branches, but strikes his axe at once into the trunk. The trunk, in relation to Canada, is Montreal, and the River St. Lawrence

Digitized by Google

down to Quebec; and so we found in the last war. It is not my purpose to scan the propriety of military measures then adopted, but I suppose it to have been rather accidental and unfortunate that we began the attack in Upper Canada. It would have been better military policy, as I suppose, to have pushed our whole force by the way of Lake Champlain, and made a direct movement on Montreal; and though we might thereby have lost the glories of the battles of the Thames and of Lundy's Lane, and of the sortie from Fort Erie, yet we should have won other laurels of equal, and perhaps greater value, at Montreal. Once successful in this movement, the whole country above would have fallen into our power. Is not this evident to every gentleman?

Rouse's Point is the best means of defending both the ingress into the lake, and the exit from it. And I say now, that on the whole frontier of the State of New York, with the single exception of the Narrows below the city, there is not a point of equal importance. I hope this government will last for ever; but if it does not, and if, in the judgment of Heaven, so great a calamity shall befall us as the rupture of this Union, and the State of New York shall thereby be thrown upon her own defences, I ask, Is there a single point, except the Narrows, the possession of which she will so much desire? No, there is not one. And how did we obtain this advantage for her? The parallel of 45° north was established by the treaty of 1783 as our boundary with Canada in that part of the line. But, as I have stated, that line was found to run south of Rouse's Point. And how did we get back this precious possession? By running a semicircle like that of the King of the Netherlands? No; we went back to the old line, which had always been supposed to be the true line, and the establishment of which gave us not only Rouse's Point, but a strip of land containing some thirty or forty thousand acres between the parallel of 45° and the old line.

The same arrangement gave us a similar advantage in Vermont; and I have never heard that the constituents of my friend near me* made any complaint of the treaty. That State got about sixty or seventy thousand acres, including several villages, which would otherwise have been left on the British side of the

* Mr. Phelps.

Digitized by Google

line. We received Rouse's Point, and this additional land, as one of the equivalents for the cession of territory made in Maine. And what did we do for New Hampshire? There was an ancient dispute as to which was the northwesternmost head of the Connecticut River. Several streams were found, either of which might be insisted on as the true boundary. But we claimed that which is called Hall's Stream. This had not formerly been allowed; the Dutch award did not give to New Hampshire what she claimed; and Mr. Van Ness, our commissioner, appointed under the treaty of Ghent, after examining the ground, came to the conclusion that we were not entitled to Hall's Stream. I thought that we were so entitled, although I admit that Hall's Stream does not join the Connecticut River till after it has passed the parallel of 45°. By the treaty of Washington this demand was agreed to, and it gave New Hampshire one hundred thousand acres of land. I do not say that we obtained this wrongfully; but I do say that we got that which Mr. Van Ness had doubted our right to. I thought the claim just, however, and the line was established accordingly. And here let me say, once for all, that, if we had gone for arbitration, we should inevitably have lost what the treaty gave to Vermont and New York; because all that was clear matter of cession, and not adjustment of doubtful boundary.

I think that I ought now to relieve the Senate from any further remarks on this northeastern boundary. I say that it was a favorable arrangement, both to Maine and Massachusetts, and that nine tenths of their people are well satisfied with it; and I say also, that it was advantageous to New Hampshire, Vermont, and New York. And I say further, that it gave up no important military point, but, on the contrary, obtained one of the greatest consequence and value. And here I leave that part of the case for the consideration of the Senate and of the country.

Here the Senate adjourned. On the following day, Mr. Webster resumed his speech as follows: —

Yesterday I read from the proceedings in the British Parliament an extract from a despatch of Lord Palmerston to Mr. Fox, in which Lord Palmerston says that the British government, as early as 1840, had perceived that they never could come to a

Digitized by Google

settlement of this controversy with the government of Mr. Van Buren. I do not wish to say whether the fault was more on one side than the other; but I wish to bar, in the first place, any inference of an improper character which may be drawn from that statement of the British Secretary of State for Foreign Affairs. It was not that they looked forward to a change which should bring gentlemen into power more pliable, or more agreeable to the purposes of England. No, Sir, those remarks of Lord Palmerston, whether true or false, were not caused by any peculiar stoutness or stiffness which Mr. Van Buren had ever maintained on our side of the merits of the question. The merits of the boundary question were never discussed by Mr. Van Buren to any extent. The thing that his administration discussed was the formation of a convention of exploration and arbitration to settle the question. A few years before this despatch of Lord Palmerston to Mr. Fox, the two governments, as I have repeatedly said, had agreed how the question should be settled. They had agreed that there should be an exploration. Mr. Van Buren had proposed and urged arbitration also. England had agreed to this, at his request. The governments had agreed to these two principles, therefore, long before the date of that letter of Lord Palmerston; and from the time of that agreement, till near the close of Mr. Van Buren's administration, the whole correspondence turned on the arrangement of details of a convention for arbitration, according to the stipulation of the parties. It was not, therefore, on account of any notion that Mr. Van Buren stood up for American questions better than others. It was because these subordinate questions respecting the convention for arbitration had got into so much complexity, were so embarrassed with projects and counter-projects, had become so difficult and entangled; and because every effort to disentangle them had made the matter worse. On this account alone, Lord Palmerston made the remark. I wish to draw no inference that would be injurious to others, to make no imputation on Mr. Van Buren. But it is necessary to remember, that this dispute had run on for years, and was likely to run on for ever, though the main principles had already been agreed on, namely, exploration and arbitration. It was an endless discussion of details and forms of proceeding, in which the parties receded farther and farther from each other every day.

Digitized by Google

One thing more, Sir, by way of explanation. I referred yesterday to the report made by General Wool, in respect to the road from Kennebec. In point of fact, the place which General Wool recommended, in 1838, to be fortified, was a few miles farther east, towards the waters of the Penobscot River, than Arnold's route; but, generally, the remark I made was perfectly true, that there has not been a road or passage at any considerable distance east of that line. The honorable member from New York yesterday produced extracts from certain debates in Parliament respecting the importance of the territory ceded to England, in a military point of view. I beg to refer to some others which I hold in my hand, but which I shall not read; the speeches of Sir Charles Napier, Lord Palmerston, Sir Howard Douglass, and others, as an offset to those quoted by the honorable member. But I do not think it of importance to balance those opinions against each other. Some gentlemen appear to entertain one set of opinions, some another; and, for my own part, I candidly admit that, by both the one and the other, facts are overstated. I do not believe, Sir, that any thing, in a military point of view, ceded by us to England, is of any great consequence to us or to her; or that any thing important in that respect was ceded by either party, always excepting Rouse's Point. I do believe it was an object of importance to repossess ourselves of the site of that fortress, and on that point I shall proceed to make a few remarks that escaped me yesterday.

I do not complain here that the member from New York has underrated the importance of that acquisition. He has not spoken of it. But what I do complain of, if complaint it may be called, is, that, when he spoke of cessions made to England by the treaty of Washington, a treaty which proposed to proceed on the ground of mutual concessions, equivalents, and considerations, when referring to such a treaty to show the concessions made to England, he did not consider it necessary to state, on the other hand, the corresponding cessions made by England to us. And I say again, that the cession of Rouse's Point by her must be, and is, considered, by those best capable of appreciating its value, of more importance in a military light than all the cessions we made to England. To show how our government have regarded its importance, let me remind you, that, immediately on the close of the last war, although the country

Digitized by Google

was heavily in debt, there was nothing to which the government addressed itself with more zeal than the fortifying this point, as the natural defence of Lake Champlain. As early as 1816, the government paid twenty or thirty thousand dollars for the site, and went on with the work at an expense of one hundred thousand dollars. But in 1818, the astronomers appointed on both sides found it was on the English side of the boundary. That, of course, terminated our operations. But that is not all. How did our government regard the acquisition by the treaty of Washington? Why, the ink with which that treaty was signed was hardly dry, when the most eminent engineers were despatched to that place, who examined its strength, and proceeded to renew and rebuild it. And no military work, not even the fortifications for the defence of the Narrows, approaching the harbor of New York, has been proceeded with by the government with more zeal. Having said so much, Sir, I will merely add, that if gentlemen desire to obtain more information on this important subject, they may consult the head of the engineer corps, Colonel Totten, and Commodore Morris, who went there by instructions to examine it, and who reported thereon.

And here, Sir, I conclude my remarks on the question of the northeastern boundary.

I now leave it to the country to say, whether this question, this troublesome, and annoying, and dangerous question, which had lasted through the ordinary length of two generations, having been taken up in 1841, was not promptly settled and well settled; whether it was not well settled for Maine and Massachusetts, and well settled for the whole country; and whether, in the opinion of all fair and candid men, the complaint about it which we hear at this day does not arise entirely from a desire that those connected with the accomplishment of a measure so important to the peace of the country should not be allowed to derive too much credit from it.

Mr. President, the destruction of the steamboat "Caroline," in the harbor of Schlosser, by a British force, in December, 1837, and the arrest of Alexander McLeod, a British subject, composing part of that force, four years afterwards, by the authorities of New York, and his trial for an alleged murder committed by him on that occasion, have been subjects of remark, here and

Digitized by Google

elsewhere, at this session of Congress. They are connected subjects, and call, in the first place, for a brief historical narrative.

In the year 1837, a civil commotion, or rebellion, which had broken out in Canada, had been suppressed, and many persons engaged in it had fled to the United States. In the autumn of that year, these persons, associating with themselves many persons of lawless character in the United States, made actual war on Canada, and took possession of Navy Island, belonging to England, in the Niagara River. It may be the safest course to give an account of these occurrences from official sources. Mr. Van Buren thus recites the facts, as the government of the United States understood them, in his message of December, 1838: —

"I had hoped that the respect for the laws and regard for the peace and honor of their own country, which have ever characterized the citizens of the United States, would have prevented any portion of them from using any means to promote insurrection in the territory of a power with which we are at peace, and with which the United States are desirous of maintaining the most friendly relations. I deeply regret, however, to be obliged to inform you that this has not been the case.

"Information has been given to me, derived from official and other sources, that many citizens of the United States have associated together, to make hostile incursions from our territory into Canada, and to aid and abet insurrection there, in violation of the obligations and laws of the United States, and in open disregard of their own duties as citizens. This information has been in part confirmed by a hostile invasion actually made by citizens of the United States, in conjunction with Canadians and others, and accompanied by a forcible seizure of the property of our citizens, and an application thereof to the prosecution of military operations against the authorities and people of Canada. The results of these criminal assaults upon the peace and order of a neighboring country have been, as was to be expected, fatally destructive to the misguided or deluded persons engaged in them, and highly injurious to those in whose behalf they are professed to have been undertaken. The authorities in Canada, from intelligence received of such intended movements among our citizens, have felt themselves obliged to take precautionary measures against them, have actually embodied the militia, and assumed an attitude to repel an invasion, to which they believed the colonies were exposed from the United States. A state of feeling on both sides of the frontier had thus been produced, which called for prompt and vigorous interference."

Digitized by Google

The following is the British account of the same occurrence: —

"In this state of things, a small band of Canadian refugees, who had taken shelter in the State of New York, formed a league with a number of the citizens of the United States for the purpose of invading the British territory, not to join a party engaged in civil war, because civil war at that time in Canada there was none, but in order to commit, within the British territory, the crimes of robbery, arson, and murder.

"By a neglect on the part of that government,* which seems to admit of but one explanation, the storehouses which contained the arms and ammunition of the State were left unguarded, and were consequently broken open by this gang, who carried off thence, in open day, and in the most public manner, cannon and other implements of war.

"After some days' preparation, these people proceeded, without any interruption from the government or authorities of the State of New York, and under the command of an American citizen, to invade and occupy Navy Island, and part of the British territory; and having engaged the steamboat Caroline, which, for their special service, was cut out of the ice, in which she had been inclosed in the port of Buffalo, they had used her for the purpose of bringing over to Navy Island, from the United States territory, men, arms, ammunition, stores, and provisions.

"The preparations made for this invasion of British territory by a band of men organized, armed, and equipped within the United States, and consisting partly of British subjects and partly of American citizens, had induced the British authorities to station a military force at Chippewa, to repel the threatened invasion, and to defend her Majesty's territory. The commander of that fort, seeing that the Caroline was used as a means *of supply and reinforcement for the invaders*, who had occupied Navy Island, judged that the capture and destruction of that vessel would prevent supplies and reinforcements from passing over to the island, and would, moreover, deprive the force on the island of the means of passing over to the British territory on the mainland."

According to the British account, the expedition sent to capture the Caroline expected to find her at Navy Island; but when the commanding officer came round the point of the island in the night, he found that she was moored to the other shore. This did not deter him from making the capture. In that capture a citizen of the United States by the name of Durfree lost his life,

* New York

Digitized by Google

the British authorities pretend, by a chance shot from one of his own party; the American, by a shot from one of the British party.

This transaction took place on the 29th of December, 1837, in the first year of Mr. Van Buren's administration. No sooner was it known here, and made the subject of a communication by Mr. Forsyth to Mr. Fox, than the latter avowed it as an act done by the British authorities, and justified it, as a proper and necessary measure of self-defence. Observe, Sir, if you please, that the Caroline was destroyed in December, 1837, and Mr. Fox's avowal of that destruction as a government act, and his justification of it, were made in January following, so soon as knowledge of the occurrence reached Washington. Now, if the avowal of the British minister, made in the name of his government, was a sufficiently authentic avowal, why, then, from that moment, the government of Great Britain became responsible for the act, and the United States was to look to that government for reparation, or redress, or whatever act or acknowledgment or apology the case called for. If Mr. Fox's letter was proper proof that the destruction of the Caroline was an act of public force, then the government of Great Britain was directly responsible to the government of the United States; and of the British government directly, and the British government only, was satisfaction to be demanded. Nothing was immediately done; the matter was suffered to lie, and grow cool; but it afterwards became a question at what time the United States government did first learn, by sufficient evidence and authority, that the British government had avowed the destruction of the Caroline as its own act. Now, in the first place, there was the direct avowal of Mr. Fox made at the time, and never disapproved. This avowal, and the account of the transaction, reached London in February, 1838. Lord Palmerston thinks that, in conversations with Mr. Stevenson, not long subsequent, he intimated distinctly that the destruction of the vessel would turn out to be justifiable. At all events, it is certain, that, on the 22d day of May, 1838, in an official note to Lord Palmerston, written by instructions from this government, demanding reparation for her destruction, Mr. Stevenson stated, "that the government of the United States did consider that transaction as an outrage upon the United States, and a violation of United

Digitized by Google

States territory, committed by British troops, planned and executed by the Lieutenant-Governor of Upper Canada." It is clear, then, that the government of the United States so understood the matter, when it gave Mr. Stevenson the instructions on which he made this demand. The administration knew, full well, that the expedition was a public expedition, set on foot by the authorities of Canada, avowed here, immediately, by Mr. Fox, as an act of which the British government took upon itself the responsibility, and never disavowed by that government at any time or in any way.

And now, Sir, why was this aggression on the territory of the United States, why was this indignity, suffered to remain unvindicated and unredressed for three years? Why was no answer made, and none insisted on, to Mr. Stevenson's official and direct demand for reparation? The jealous guardians of national honor, so tenaciously alive to what took place in 1842, what opiate had drugged their patriotism for so many years? Whose fault was it that, up to 1841, the government of Great Britain had been brought to no acknowledgment, no explanation, no apology? This long and unbroken slumber over public outrage and national indignity, who indulged in it? Nay, if the government of the United States thought it had not sufficient evidence that the *outrage* was, as it had declared it to be itself, a public outrage, then it was a *private* outrage, the invasion of our territory, and the murder of an American citizen, without any justification, or pretence of justification; and had it not become high time that such an outrage was redressed?

Sir, there is no escape from this. The administration of Mr. Van Buren knew perfectly well that the destruction of the Caroline was an act of public force, done by the British authorities in Canada. They knew it had never been disavowed at home. The act was a wrongful one on the part of the Canadian forces. They had no right to invade the territory of the United States. It was an aggression for which satisfaction was due, and should have been insisted on immediately, and insisted on perseveringly. But this was not done. The administration slept, and slept on, and would have slept till this time, if it had not been waked by the arrest of McLeod. Being on this side of the line, and making foolish and false boasts of his martial achievements, McLeod was arrested in November, 1840, on the charge of the

Digitized by Google

William Henry Harrison

From the Painting by Heywood, in the possession of
Miss Betty Harrison Eaton, South Bend, Ohio

Digitized by Google

Digitized by Google

A.W.Elson & Co. Boston.

Digitized by Google

Digitized by Google

murder of Durfree, in capturing the Caroline, and committed to prison by the authorities of New York. He was bailed; but violence and mobs overawed the courts, and he was recommitted to jail.

This was an important and very exciting occurrence. Mr. Fox made a demand for his immediate release. The administration of Mr. Van Buren roused itself, and looked round to ascertain its position. Mr. Fox again asserted, that the destruction of the Caroline was an act of public force, done by public authority, and avowed by the English government, as the American government had long before known. To this Mr. Forsyth replied, in a note of December 26th, 1840, thus: "If the destruction of the Caroline was a public act of persons in her Majesty's service, obeying the order of their superior authorities, this fact has not been before communicated to the government of the United States by a person authorized to make the admission." Certainly, Mr. President, it is not easy to reconcile this language with the instructions under which Mr. Stevenson made his demand of May, 1838, and which demand he accompanied with the declaration, that the act was planned and executed by the authorities of Canada. Whether the act of the Governor had or had not been approved at home, the government of the United States, one would think, could hardly need to be informed, in 1840, that that act was committed by persons in her Majesty's service, obeying the order of their superior authorities. Mr. Forsyth adds, very properly, that it will be for the courts to decide on the validity of the defence. It is worthy of remark, that, in this letter of the 26th of December, 1840, Mr. Forsyth complains, that up to that day the government of the United States had not become acquainted with the views and intentions of the government of England respecting the destruction of the Caroline! Now, Mr. President, this was the state of things in the winter of 1840–41, and on the 4th of March, 1841, when General William Henry Harrison became President of the United States.

On the 12th of that same month of March, Mr. Fox wrote to the Department of State a letter, in which, after referring to his original correspondence with Mr. Forsyth, in which he had avowed and justified the capture of the Caroline as an act of necessary defence, he proceeds to say:—

Digitized by Google

"The undersigned is directed, in the first place, to make known to the government of the United States, that her Majesty's government entirely approve of the course pursued by the undersigned in that correspondence, and of the language adopted by him in the official letters above mentioned.

"And the undersigned is now instructed again to demand from the government of the United States, formally, in the name of the British government, the immediate release of Mr. Alexander McLeod.

"The grounds upon which the British government make this demand upon the government of the United States are these: That the transaction on account of which Mr. McLeod has been arrested, and is to be put upon his trial, was a transaction of a public character, planned and executed by persons duly empowered by her Majesty's colonial authorities to take any steps, and to do any acts, which might be necessary for the defence of her Majesty's territories, and for the protection of her Majesty's subjects; and that, consequently, those subjects of her Majesty who engaged in that transaction were performing an act of public duty, for which they cannot be made personally and individually answerable to the laws and tribunals of any foreign country.

"The transaction may have been, as her Majesty's government are of opinion that it was, a justifiable employment of force for the purpose of defending the British territory from the unprovoked attack of a band of British rebels and American pirates, who, having been permitted to arm and organize themselves within the territory of the United States, had actually invaded and occupied a portion of the territory of her Majesty; or it may have been, as alleged by Mr. Forsyth in his note to the undersigned of the 26th of December, 'a most unjustifiable invasion, in time of peace, of the territory of the United States.' But it is a question essentially of a political and international kind, which can be discussed and settled only between the two governments, and which the courts of justice of the State of New York cannot by possibility have any means of judging, or any right of deciding."

The British government insisted that it must have been known, and was well known, long before, that it had avowed and justified the capture of the Caroline, and taken upon itself the responsibility. Mr. Forsyth, as you have seen, Sir, in his note of December 26th, had said that fact had not been before communicated by a person authorized to make the admission. What, then, was to be done? Here was a new, fresh, and direct avowal of the act by the British government, and a formal demand for McLeod's immediate release. And how did General Harrison's administration treat this? Sir, just as it ought

Digitized by Google

to have treated it. It was not poor and mean enough, in its intercourse with a foreign government, to make any reflections on its predecessor, or appear to strike out a new path for itself. It did not seek to derogate, in the slightest degree, from the propriety of what had been said and done by Mr. Van Buren and Mr. Forsyth, whatever eminent example it might have found for such a course of conduct. No; it rather adopted what Mr. Forsyth had said in December, to wit, that at that time no authentic avowal had been communicated to the United States. But now an avowal had been made, on the authority of the government itself; and General Harrison acted, and rightly acted, on the case made by this avowal. And what opinions did he form, and what course did he pursue, in a crisis, and in regard to transactions, so intimately connected with the peace and honor of the country?

Sir, in the first place, General Harrison was of opinion, that the entering of the United States territory by British troops, for the purpose of capturing or destroying the Caroline, was unjustifiable. That it was an aggression, a violation of the territory of the United States. Not that the British forces might not have destroyed that vessel, if they could have found her on their own side of the line; for she was unlawfully employed, she was assisting to make war on Canada. But she could not be followed into a port of the United States, and there captured. This was an offence against the dignity and sovereignty of this government, for which apology and satisfaction ought long since to have been obtained, and which apology and satisfaction it was not yet too late to demand. This was General Harrison's opinion.

In the next place, and on the other hand, General Harrison was of opinion, that the arrest and detention of McLeod were contrary to the law of nations. McLeod was a soldier acting under the authority of his government, and obeying orders which he was bound to obey. It was absurd to say, that a soldier, who must obey orders or be shot, may still be hanged if he does obey them. Was the President of the United States to turn aside from facing the British lion, and fall on a lamb? Was he to quail before the crown of England, and take vengeance on a private soldier? No, Sir, that was not in character for William Henry Harrison. He held the British government responsible.

Digitized by Google

He soon died, to the great grief of his country, but in the time of his successor that responsibility was justly appealed to, and satisfactorily fulfilled.

Mr. Fox's letter, written under instructions from Lord Palmerston, was a little peremptory, and some expressions were regarded as not quite courteous and conciliatory. This caused some hesitation; but General Harrison said that he would not cavil at phrases, since, in the main, the British complaint was well founded, and we ought at once to do what we could to place ourselves right.

Sir, the members of the administration were all of one mind on this occasion. General Harrison, himself a man of large general reading and long experience, was decidedly of opinion that McLeod could not be lawfully held to answer in the courts of New York for what had been done by him as a soldier, under superior orders. All the members of the administration were of the same opinion, without doubt or hesitation. I may without impropriety say, that Mr. Crittenden, Mr. Ewing, Mr. Bell, Mr. Badger, and Mr. Granger were not all likely to come to an erroneous conclusion, on this question of public law, after they had given it full consideration and examination.

Mr. Fox's letter was answered; and from that answer I will read an extract.

"Mr. Fox informs the government of the United States that he is instructed to make known to it that the government of her Majesty entirely approve the course pursued by him in his correspondence with Mr. Forsyth in December last, and the language adopted by him on that occasion; and that the government have instructed him 'again to demand from the government of the United States, formally, in the name of the British government, the immediate release of Mr. Alexander McLeod'; that 'the grounds upon which the British government make this demand upon the government of the United States are these: That the transaction on account of which Mr. McLeod has been arrested, and is to be put upon his trial, was a transaction of a public character, planned and executed by persons duly empowered by her Majesty's colonial authorities to take any steps, and to do any acts, which might be necessary for the defence of her Majesty's territories, and for the protection of her Majesty's subjects; and that, consequently, those subjects of her Majesty who engaged in that transaction were performing an act of public duty, for which they cannot be made personally and individually answerable to the laws and tribunals of any foreign country.'

Digitized by Google

"The President is not certain that he understands precisely the meaning intended by her Majesty's government to be conveyed by the foregoing instruction.

"This doubt has occasioned with the President some hesitation; but he inclines to take it for granted that the main purpose of the instruction was to cause it to be signified to the government of the United States that the attack on the steamboat Caroline was an act of public force, done by the British colonial authorities, and fully recognized by the Queen's government at home; and that, consequently, no individual concerned in that transaction can, according to the just principles of the laws of nations, be held personally answerable, in the ordinary courts of law, as for a private offence; and that, upon this avowal of her Majesty's government, Alexander McLeod, now imprisoned on an indictment for murder, alleged to have been committed in that attack, ought to be released by such proceedings as are usual and are suitable to the case.

"The President adopted the conclusion, that nothing more than this could have been intended to be expressed, from the consideration that her Majesty's government must be fully aware that, in the United States, as in England, persons confined under judicial process can be released from that confinement only by judicial process. In neither country, as the undersigned supposes, can the arm of the executive power interfere, directly or forcibly, to release or deliver the prisoner. His discharge must be sought in a manner conformable to the principles of law, and the proceedings of courts of judicature. If an indictment like that which has been found against Alexander McLeod, and under circumstances like those which belong to his case, were pending against an individual in one of the courts of England, there is no doubt that the law officer of the crown might enter a *nolle prosequi*, or that the prisoner might cause himself to be brought up on *habeas corpus* and discharged, if his ground of discharge should be adjudged sufficient, or that he might prove the same facts, and insist on the same defence or exemption, on his trial.

"All these are legal modes of proceeding, well known to the laws and practice of both countries. But the undersigned does not suppose that, if such a case were to arise in England, the power of the executive government could be exerted in any more direct manner.

"Even in the case of ambassadors and other public ministers, whose right to exemption from arrest is personal, requiring no fact to be ascertained but the mere fact of diplomatic character, and to arrest whom is sometimes made a highly penal offence, if the arrest be actually made, it must be discharged by application to the courts of law.

"It is understood that Alexander McLeod is holden, as well on civil as on criminal process, for acts alleged to have been done by him in the

Digitized by Google

attack on the Caroline, and his defence or ground of acquittal must be the same in both cases. And this strongly illustrates, as the undersigned conceives, the propriety of the foregoing observations; since it is quite clear that the executive government cannot interfere to arrest a civil suit between private parties in any stage of its progress, but that such suit must go on to its regular judicial termination. If, therefore, any course different from such as have been now mentioned was in contemplation of her Majesty's government, something would seem to have been expected from the government of the United States as little conformable to the laws and usages of the English government as to those of the United States, and to which this government cannot accede.

"The government of the United States, therefore, acting upon the presumption which is already adopted, that nothing extraordinary or unusual was expected or requested of it, decided, on the reception of Mr. Fox's note, to take such measures as the occasion and its own duty appeared to require.

"In his note to Mr. Fox of the 26th of December last, Mr. Forsyth, the Secretary of State of the United States, observes, that, 'if the destruction of the Caroline was a public act of persons in her Majesty's service, obeying the order of their superior authorities, this fact has not been before communicated to the government of the United States by a person authorized to make the admission; and it will be for the court, which has taken cognizance of the offence with which Mr. McLeod is charged, to decide upon its validity when legally established before it'; and adds: 'The President deems this a proper occasion to remind the government of her Britannic Majesty that the case of the Caroline has been long since brought to the attention of her Majesty's principal Secretary of State for Foreign Affairs, who, up to this day, has not communicated its decision thereupon. It is hoped that the government of her Majesty will perceive the importance of no longer leaving the government of the United States uninformed of its views and intentions upon a subject which has naturally produced much exasperation, and which has led to such grave consequences.'

"The communication of the fact that the destruction of the Caroline was an act of public force by the British authorities, being formally made to the government of the United States by Mr. Fox's note, the case assumes a different aspect.

"The government of the United States entertains no doubt, that, after this avowal of the transaction as a public transaction, authorized and undertaken by the British authorities, individuals concerned in it ought not, by the principles of public law and the general usage of civilized states, to be holden personally responsible in the ordinary tribunals of law for their participation in it. And the President presumes that it can

Digitized by Google

hardly be necessary to say that the American people, not distrustful of their ability to redress public wrongs by public means, cannot desire the punishment of individuals when the act complained of is declared to have been the act of the government itself.

"Soon after the date of Mr. Fox's note, an instruction was given to the Attorney-General of the United States, from this department, by direction of the President, which fully sets forth the opinions of this government on the subject of Mr. McLeod's imprisonment; a copy of which instruction the undersigned has the honor herewith to inclose.

"The indictment against McLeod is pending in a State court; but his rights, whatever they may be, are no less safe, it is to be presumed, than if he were holden to answer in one of this government.

"He demands immunity from personal responsibility by virtue of the law of nations; and that law, in civilized states, is to be respected in all courts. None is either so high or so low as to escape from its authority in cases to which its rules and principles apply."

And now, Sir, who will deny that this decision was entirely correct? Who will deny that this arrest of McLeod, and this threatening to hang him, were just cause of offence to the British government? Sir, what should we ourselves have thought, in a like case? If United States troops, by the lawful authority of their government, were ordered to pass over the line of boundary for any purpose, retaliation, reprisal, fresh pursuit of an enemy, or any thing else, and the government of the territory invaded, not bringing our government to account, but sleeping three years over the affront, should then snatch up one of our citizens found in its jurisdiction, and who had been one of the force, and proceed to try, condemn, and execute him, Sir, would not the whole country have risen up like one man? Should we have submitted to it for a moment? Suppose that now, by order of the President, and in conformity to law, an American army should enter Canada, or Oregon, for any purpose which the government of the United States thought just and was ready to defend, and the British government, turning away from demanding responsibility or satisfaction from us, should seize an individual soldier, try him, convict him, and execute him. Should we not declare war at once, or make war? Would this be submitted to for a moment? Is there a man, with an American heart in his bosom, who would remain silent, in the face of such an outrage on public law and such an insult to the

Digitized by Google

flag and sovereignty of his country? Who would endure that an American soldier, acting in obedience to lawful authority, as a part of a public military force, should be arrested, tried, and executed as a private murderer? Sir, if we had received such an insult, and atonement had not been instantly made, we should have avenged it at any expense of treasure and of blood. A manly feeling of honor and character, therefore, a sense of justice, and respect for the opinion of the civilized world, a conviction of what would have been our own conduct in a like case, all called on General Harrison to do exactly what he did.

England had assumed her proper responsibility, and what was it? She had made an aggression upon the United States by entering her territory for a belligerent purpose. She had invaded the sanctity of our territorial rights. As to the mere destruction of the vessel, if perpetrated on the Canadian side, it would have been quite justifiable. The persons engaged in that vessel were, it is to be remembered, violating the laws of their own country, as well as the law of nations; some of them suffered for that offence, and I wish all had suffered.

Mr. Allen here desired to know where the proof was of the fact that the Caroline was so engaged? Was there any record of the fact?

Yes, there is proof, abundant proof. The fact that the vessel was so engaged was, I believe, pretty well proved on the trial and conviction of Van Rensselaer. But, besides, there is abundant proof in the Department of State, in the evidence taken in Canada by the authorities there, and sent to Great Britain, and which could be confirmed by any body who lived anywhere from Buffalo down to Schlosser. It was proved by the *res gestæ*. What were the condition and conduct of the Caroline? Mr. Stevenson, making the best case he could for the United States, said that she was cleared out at Buffalo, in the latter part of December, to ply between Buffalo and Schlosser, on the same side of the river, a few miles below. Lord Palmerston, with his usual sarcasm, and with more than a usual occasion for the application of that sarcasm, said, "It was very true she was cleared out; but Mr. Stevenson forgot that she was also 'cut out' of the ice in which she had been laid up for the winter, and that, in departing from Buffalo, in-

Digitized by Google

stead of going down to Schlosser, she went down to Navy Island"; and his Lordship asked, "What new outbreak of traffic made it necessary to have a steamboat plying, in the depth of winter, between Buffalo and Schlosser, when exactly between those two places, on the shore, there was a very convenient railroad?" I will most respectfully suggest all this to the consideration of the chairman of the Committee on Foreign Relations. And, as further evidence, I will state the entire omission of the government of the United States, during the whole of Mr. Van Buren's administration, to make any demand for reparation for the property destroyed. So far as I remember, such a suggestion was never made. But one thing I do very well remember, and that is, that a person who had some interest in the property came to the city of Washington, and thought of making an application to the government, in the time of Mr. Van Buren, for indemnity. He was told that the sooner he shut his mouth on that subject the better, for he himself, knowing that the purpose to which the vessel was to be applied came within the purview of the statutes of the United States against fitting out hostile expeditions against countries with which the United States were at peace, was liable to prosecution; and he ever afterwards, profiting by this friendly admonition, held his peace. That is another piece of evidence which I respectfully submit to the consideration of the chairman of the Committee on Foreign Relations.

Well, Sir, McLeod's case went on in the court of New York, and I was utterly surprised at the decision of that court on the *habeas corpus*. On the peril and at the risk of my professional reputation, I now say, that the opinion of the court of New York in that case is not a respectable opinion, either on account of the result at which it arrives, or the reasoning on which it proceeds.*

McLeod was tried and acquitted; there being no proof that he had killed Durfree. Congress afterwards passed an act, that,

* This opinion has been ably and learnedly reviewed by Judge Tallmadge, of the Superior Court of the City of New York. Of this review the late Chief Justice Spencer says: "It refutes and overthrows the opinion most amply." Chancellor Kent says of it: "It is conclusive upon every point. I should have been proud if I had been the author of it." This opinion of the Supreme Court of New York is not likely to be received, at home or abroad, as the American understanding of an important principle of public law.

Digitized by Google

if such cases should arise hereafter, they should be immediately transferred to the courts of the United States. That was a necessary and a proper law. It was requisite, in order to enable the government of the United States to maintain the peace of the country. It was perfectly constitutional; because it is a just and important principle, quite a fundamental principle, indeed, that the judicial power of the general government should be coextensive with its legislative and executive powers. When the authority and duty of this government are to be judicially discussed and decided, that decision must be in the courts of the United States, or else the tie which holds the government together would become a band of straw. McLeod's acquittal put an end to all question concerning his case; and Congress having passed a law providing for such cases in future, it only remained that a proper explanation and apology, all that a nation of high honor could ask, or a nation of high honor could give, should be obtained for the violation of territorial sovereignty; and that was obtained. It was not obtained in Mr. Van Buren's time, but obtained, concurrently with the settlement of other questions, in 1842.*

Before Mr. Fox's letter was answered, Sir, the President had directed the Attorney-General to proceed to New York, with copies of the official correspondence, and with instructions to signify to the Governor of New York the judgment which had been formed here.† These instructions have been referred to, and they are public. The moment was critical. A mob had arrested judicial proceedings on the frontier. The trial of McLeod was expected to come on immediately at Lockport; and what would be the fate of the prisoner, between the opinions entertained inside of the court-house and lawless violence without, no one could foresee. The instructions were in the spirit of the answer to Mr. Fox's letter. And I now call on the member from New York to furnish authority for his charge, made in his speech the other day, that the government of the United States had "interfered, directly and palpably," with the proceedings of the courts of New York. There is no authority, not a particle, for any such statement. All that was done was made

* See the letter of Mr. Webster to Lord Ashburton, of the 27th of July, 1842, and Lord Ashburton's answer, in the eleventh volume.

† See the instructions to Mr. Crittenden, in the eleventh volume.

Digitized by Google

public. He has no other authority for what he said than the public papers; they do not bear him out. To say, on the ground of what is publicly known, that the government of the United States interfered, "directly and palpably," with the proceedings in New York, is wholly to misconceive and mistake the transaction. There was no demand for the delivery of McLeod to the United States; there was no attempt to arrest the proceedings of the New York court. Mr. Fox was told that these proceedings must go on, until they were judicially terminated; that McLeod was in confinement, by judicial process, and could only be released by judicial process under the same authority. All this is plainly stated in the instructions to Mr. Crittenden, and no man who reads that paper can fall into any mistake about it. There was no "direct and palpable" interference with the New York courts, nor any interference at all. The Governor of New York did not think there was, nor did any body else ever think there was, who informed himself of the facts of the case.

Mr. President, the honorable Senator from Ohio* bestowed, I believe, a very considerable degree of attention upon topics connected with the treaty of Washington. It so happened that my engagements did not permit me to be in the Senate during the delivery of any considerable portion of that speech. I was present occasionally, however, and heard some parts of it. I have not been able to find any particular account of the honorable member's remarks. In the only printed speech by him on which I have been able to lay my hands, it is said that he took occasion to speak, in general terms, of various topics, enumerating them, embraced in the treaty of 1842. As I have not seen those remarks, I shall not now undertake to make any further allusion to them. If I should happen to see them hereafter, so far as I may believe that they have not been answered by what I have already said, or may now say, I may, perhaps, deem it worth while to embrace some opportunity of taking such notice of them as they may seem to require.

Mr. Allen. I will state, for the satisfaction of the Senator, the general substance of what I said on the subject. If he so desires, I will now proceed to do so.

* Mr. Allen.

Digitized by Google

I think that, upon the whole, when the gentleman shall furnish the public with a copy of his speech, I may, perhaps, have a more proper opportunity to pay attention to it, especially as I have to say something of other speeches, which may at present occupy as much of the time of the Senate as can well be devoted to this subject.

The honorable member from New York, nearest the chair,* made a speech on this subject, of which I propose to take some notice. Before doing so I shall take notice of the "extracts from the speech of Mr. C. J. Ingersoll, in the House of Representatives," which he has borrowed and incorporated into his speech by way of note.

Mr. Dickinson explained that he was not responsible for the statement in the note to his speech, and that he did not make the extracts from Mr. Ingersoll's speech a part of his own. Mr. Webster proceeded.

The passage quoted by the gentleman from New York from the speech of Mr. C. J. Ingersoll is as follows: —

"Out of this controversy arose the arrest of Alexander McLeod. What he† intended to state now consisted of facts not yet generally known, but which would soon be made known, for they were in progress of publication, and he had received them in no confidence, from the best authority. When McLeod was arrested, General Harrison had just died, and Mr. Tyler was not yet at home as his successor. Mr. Webster, who was *de facto* the administration, — Mr. Webster wrote to the Governor of New York, with his own hand, a letter, and sent it by express, marked 'private,' in which the Governor was told that he must release McLeod, or see the magnificent commercial emporium laid in ashes. The brilliant description given by the gentleman from Virginia of the prospective destruction of that city in the case of a war was, in a measure, anticipated on this occasion. McLeod must be released, said the Secretary of State, or New York must be laid in ashes. The Governor asked when this would be done. The reply was, *forthwith*. Do you not see coming on the waves of the sea the Paixhan guns? and if McLeod be not released New York will be destroyed. But, said the Governor, the power of pardon is vested in me, and even if he be convicted, he may be pardoned. O, no, said the Secretary, if you even try him, you will bring destruction on yourselves."

Notwithstanding the circumstantial detail of facts in the fore-

* Mr. Dickinson. † Mr. Ingersoll.

Digitized by Google

going passage, they are wholly without foundation. It is implied that a correspondence consisting of an exchange of letters took place between me and the Governor of New York. A single letter only, which I shall presently read to the Senate, was written by me; and the entire detail of the supposed contents of the correspondence; the conflagration "of the commercial emporium," the "Paixhan guns," the assertion ascribed to me, that "McLeod must be released or New York must be laid in ashes," the repetition of this remark in a subsequent letter, the intimation of the Governor of New York that he had the pardoning power, and my alleged reply, that, "if you even try McLeod, you will bring destruction on yourselves"; I say, Sir, this entire detail is imaginary, and altogether destitute of foundation in fact.

The following are the circumstances as they actually occurred. When McLeod was arrested, there was a good deal of conversation in Washington and elsewhere about what would happen. It was a subject of very considerable conversation, and certainly of embarrassment to the government. It was hoped and expected by me, and I believe by the President and other members of the Cabinet, that the Governor of New York would see that it was a case in which, if he were invested with authority by the constitution and the laws of the State, he would recommend the entering of a *nolle prosequi* by the prosecuting officer of the State of New York. It was expected that he would do so, and General Harrison one day said to me, that he had received a letter from a friend, in which he was informed that the Governor of New York had made up his mind to take that course, and that he was very glad of it, as it relieved the general government from its embarrassment. It was about the time that the Attorney-General was to proceed to New York to see how the matter stood, or perhaps a day or two after he had left Washington. The case was to be tried within ten days, at Lockport, in the western part of that State. Having received this information, General Harrison directed me to write a note of thanks to the Governor, stating that he thought he had done exactly what was proper, and by so doing had relieved the government from some embarrassment, and the country from some danger of collision with a foreign power. And that is every thing said in that letter, or any other letter written

Digitized by Google

by me to the Governor of the State of New York, marked private. The letter is here if any one wishes to see it, or to hear it read.

Mr. Crittenden suggested that the letter should be read.

Very well. Here it is, I will read it.

"(Private.) "*Department of State,*
Washington, March 17th, 1841.

"MY DEAR SIR,—The President has learned, not directly, but by means of a letter from a friend, that you had expressed a disposition to direct a *nolle prosequi* in the case of the indictment against McLeod, on being informed by this government that the British government has officially avowed the attack on the Caroline as an act done by its own authority. The President directs me to express his thanks for the promptitude with which you appear disposed to perform an act, which he supposes proper for the occasion, and which is calculated to relieve this government from embarrassment, and the country from some danger of collision with a foreign power.

"You will have seen Mr. Crittenden, whom I take this occasion to commend to your kindest regard.

"I have the honor to be, yours, truly,
"DANIEL WEBSTER.

"HIS EXCELLENCY, WM. H. SEWARD,
Governor of New York."

MR. MANGUM. Was that the only letter written?

Yes, the only letter; the only private letter ever written by me to the Governor of New York in the world.

The speech quoted by the gentleman from New York proceeds: "The next step taken by the administration was to appoint a district attorney, who was to be charged with the defence of Alexander McLeod, the gentleman who was lately removed from office, and a fee of five thousand dollars was put into his hands for this purpose." This statement, Sir, is entirely unfounded. The government of the United States had no more to do than the government of France with the employment of Mr. Spencer for the defence of McLeod. They never interfered with his appointment in the slightest degree. It is true, they furnished to Mr. Spencer, as they would have furnished to any other counsel, the official correspondence, to prove that the government of Great Britain avowed the act of the destruction of

Digitized by Google

the Caroline as their own. The speech continues: "Application was afterwards made to the chief justice of the State of New York for the release of McLeod. The judge did not think proper to grant the application. The marshal was about to let him go, when he was told that he must do it at his peril; and that, if McLeod went out of prison, he should go in." I do not know what the marshal had to do with the case. McLeod was in prison under the authority of the State of New York. I do not know how it was possible that the marshal, an officer of the United States, could interfere.

But there are some other matters in the speech to which I must refer. "He would call on the honorable member from Massachusetts* to sustain him in what he was about to say." I do not find that the honorable member from Massachusetts has yet sustained him in these statements, and I rather think he never will. He asserts that I wrote to the Committee on Foreign Affairs of the House on that subject, asking an outfit and a salary for a special minister to England to settle the Oregon question. This statement is as destitute of foundation as those to which I have already alluded. I never wrote such a letter, to the best of my recollection. "These are facts," he says, "which no one will dispute." I dispute them. I say I have no recollection of them at all. I do not believe Mr. Adams has any recollection of any such note being written by me. If I had written such a note, I think I should remember it.

The author of the speech next proceeds to a topic no way connected with what he has been discussing.

Here Mr. Webster read an extract from the speech of Mr. Ingersoll, charging him (Mr. W.) with offering to give Oregon for free trade with England, in a speech made at a public dinner, in Baltimore, May, 1843.

Here by me sits a Senator from Maryland,† who was present at that dinner, and heard my speech; and if I needed a witness beyond my own statement and printed speech, I could readily call upon him. In that speech, I did not mention Oregon, nor allude to it in the remotest degree. The statement that I did so is wholly unfounded in fact. The author of this speech was not there. If he knew any thing about it, he must have acquired

* Mr. Adams. † Mr. Johnson.

Digitized by Google

his knowledge from the printed speech; but in that there is not the slightest reference to Oregon. He says further, that my speech at Baltimore contained a strong recommendation of a commercial treaty with England. Why, Sir, a commercial treaty with England to regulate the subjects upon which I was talking at Baltimore, the duties laid on goods by the two countries, was just the thing that I did *not* recommend, and which I there declared the treaty-making power had no right to make, no authority to make. He would represent me as holding out the idea, that the power of laying duties for revenue was a power that could be freely exercised by the President and Senate, as part of the treaty-making power! Why, I hope that I know more of the Constitution than that. The ground I took was just the reverse of that, exactly the reverse. Sir, my correspondence, public and private, with England, at that time, led me to anticipate, before long, some change in the policy of England with respect to certain articles, the produce of this country; some change with respect to the policy of the corn-laws. I suggested in that speech how very important it would be, if things should so turn out, that that great product of ours, Indian corn, of which we raise five times as much as we do of wheat, (principally the product of the West and Southwest, especially of the State of Tennessee, which raises annually I do not know how many millions,) I suggested, I say, how fortunate it would be, if an arrangement could be made by which that article of human food could be freely imported into England. I said that, in the spirit that prevailed, and which I knew prevailed, (for I knew that the topic had been discussed in England,) if an arrangement could be made in some proper manner to produce such a result, it would be a piece of great good fortune. But, then, did I not immediately proceed to say, that it could not be done by treaty? I used the word "arrangement," studiously used it, to avoid the conclusion that it could be done by treaty I will read what I said:—

"But with regard to the direct intercourse between us and England great interest is excited, many wishes expressed, and strong opinions entertained in favor of an attempt to settle duties on certain articles by treaty or arrangement. I say, gentlemen, by 'arrangement,' and I use that term by design. The Constitution of the United States leaves with Congress the great business of laying duties to support the government.

Digitized by Google

It has made it the duty of the House of Representatives, the popular branch of the government, to take the lead on such subjects. There have been some few cases in which treaties have been entered into, having the effect to limit duties; but it is not necessary, and that is an important part of the whole subject, it is not necessary to go upon the idea that, if we come to an understanding with foreign governments upon rates of duties, that understanding can be effected only by means of a treaty ratified by the President and two thirds of the Senate, according to the form of the Constitution.

. . . . . .

"It is true a treaty is the law of the land. But, then, as the whole business of revenue and general provision for all the wants of the country is undoubtedly a very peculiar business of the House of Representatives or of Congress, I am of opinion, and always have been, that there should be no encroachment upon it by the exercise of the treaty-making power, unless in case of great and evident necessity."

There have been some cases of necessity, like that of the convention with France for the acquisition of Louisiana.* And yet he says that in this speech, in which Oregon was not mentioned at all, in which I repudiated the raising of revenue by treaty, I offered Oregon to England for free trade, and recommended a treaty with her for the purpose of laying duties.

The author of the speech further says: "By this treaty, the good old Bay State, which he loved with filial reverence, was disintegrated, torn asunder." Massachusetts torn asunder! Sir, Massachusetts and Maine owned in common a tract of wild land on the northern and eastern boundary of the latter State. The jurisdiction was exclusively in Maine. The boundary had never been run; and after fifty-nine years of ineffectual attempts, as we have seen, to settle the adverse claims of the United States and Great Britain, all parties concerned, Maine and Massachusetts, and the two national governments, united in the conventional line laid down in the treaty of Washington. By this line Massachusetts, for a just and reasonable equivalent, parted with her interest in a portion of the wild lands on the frontier; and by this step, the author of the speech says, Massachusetts "is disintegrated and torn asunder." Can absurdity go further?

* By the eighth article of this convention, it was stipulated that for twelve years the vessels of France and Spain, laden with the produce of those countries respectively, should be admitted into the port of New Orleans, in the same manner as the ships of the United States coming directly from France or Spain.

Digitized by Google

Mr. President, I will now take some further notice of what has been said by the member from New York.* I exceedingly regret, that the observations of the gentleman make it my duty to take some notice of them. Our acquaintance is short, but it has not been unpleasant. I have always thought him a man of courteous manners and kind feelings, but it cannot be expected that I shall sit here and listen to statements such as the honorable member has made on this question, and not answer them. I repeat, it gives me great pain to take notice of the gentleman's speech. This controversy is not mine; all can bear witness to that. I have not undertaken to advance, of my own accord, a single word about the treaty of Washington. I am forced, driven to it; and, Sir, when I am driven to the wall, I mean to stand up and make battle, even against the most formidable odds.

The gentleman says that we made a very important concession of territory to England under that treaty. Now, that treaty proposed to be a treaty of concession on both sides. The gentleman states concessions made by the United States, but entirely forgets to state those made on the other side. He takes no notice of the cession of Rouse's Point; or of a strip of land a hundred miles long, on the border of the State of New York. But, Sir, what I wish principally to do now, is to turn to another part of this speech. I before gave the gentleman notice that I would call upon him for the authority upon which he made such a statement, as that an attempt was made at Washington by members of the government to stop the course of justice in New York; and now, if the gentleman is ready with the proofs, I would be glad to have them.

Mr. Dickinson. I will reserve what I have to say until the gentleman has done, when I shall produce it to his satisfaction.

I undertake to say, no authority will be produced, or is producible, that there were attempts made at Washington to interfere with the trial of McLeod. I have already gone over the circumstances as they occurred. It was suggested by the President to Governor Seward, that the President was gratified that he had come to the conclusion to enter a *nolle prosequi* in the case of

* Mr. Dickinson.

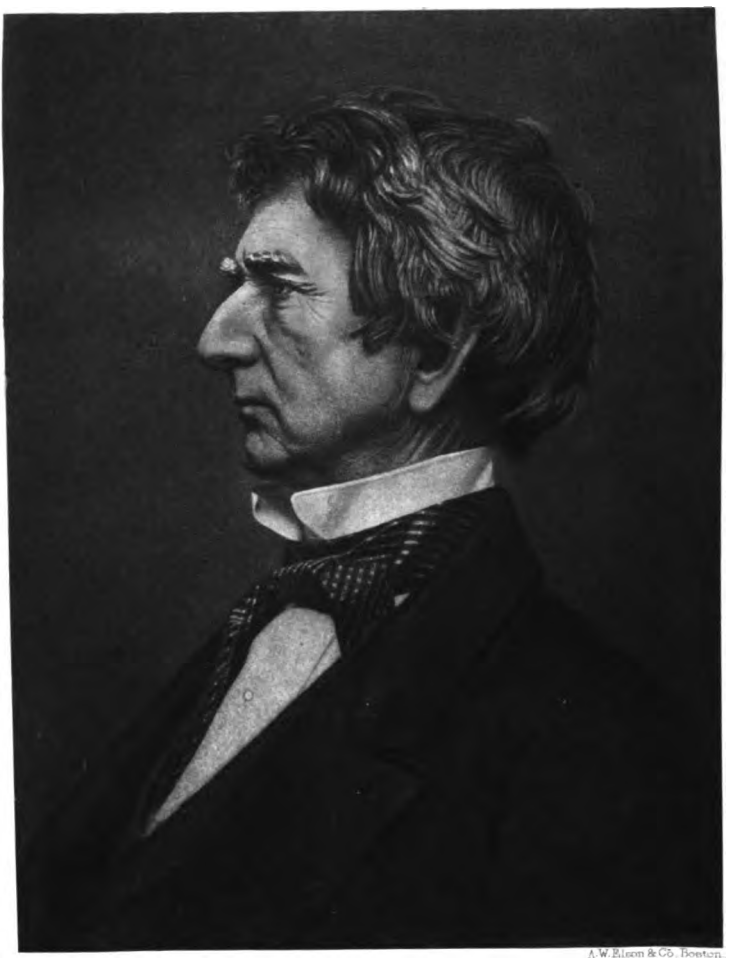
Digitized by Google

W. H. Seward

From a Photograph from life, by Brady, Washington

Digitized by Google

Digitized by Google



A.W. Elson & Co. Boston.

Digitized by Google

Digitized by Google

McLeod. Was that a palpable interference with judicial authority? Was that a resistance of the ordinary process of law? The government of the United States had nothing at all to do with the trial of McLeod in the New York courts, except to see that he was furnished with the proof of facts necessary to his defence. But I wish to know in what school the gentleman has learned that, if a man is in prison, and his counsel moves to have him brought up on the writ of *habeas corpus*, that step is any resistance of judicial process in favor of the prisoner? It is easy to give to any thing the name of a direct and palpable interference. He may apply the term to the journey of the Attorney-General to Albany, or to any other act or occurrence. But that does not prove it so. To make good his statement he must prove that the government did some act, or acts, which the common sense of men holds to be a palpable and direct interference. I say there was none. He quotes the letter of instructions to the Attorney-General. That proposes no interference. That letter says to the Attorney-General, that, if the case were pending in the courts of the United States, so that the President could have control over it, he would direct the prosecuting officer to enter a *nolle prosequi;* but as it is within the jurisdiction of New York, it is referred to the Governor of that State. That is the substance, in this respect, of the letter which the Attorney-General carried to the Governor of New York, and there was not another act done by authority at Washington in this matter, and I call upon the gentleman at his leisure to produce his authority for his statements.

After a few more remarks upon the use made by Mr. Dickinson of the speech of Mr. Ingersoll, and explanations on this subject between Mr. Webster and Mr. Dickinson, Mr. Webster proceeded as follows: —

I will now allude, Mr. President, as briefly as possible, to some other provisions of the treaty of Washington. The article for the delivery of fugitives from justice has been assailed. It has been said that an innocent woman had been sent back to Scotland, under its provisions. Why, I believe the fact is, that a woman had murdered her husband, or some relative in Scotland, and fled to this country. She was pursued, demanded, and carried back, and from some defect in the testimony, or from some other cause, such as not unfrequently occurs in

Digitized by Google

criminal trials, she was acquitted.* But, Sir, I undertake to say, that the article for the extradition of offenders, contained in the treaty of 1842, if there was nothing else in the treaty of any importance, has of itself been of more value to this country, and is of more value to the progress of civilization, the cause of humanity, and the good understanding between nations, than can be readily computed. What were the state and condition of this country, Sir, on the borders and frontiers, at the time of this treaty? Why, it was the time when the "patriot societies" or "Hunters' Lodges" were in full operation, when companies were formed and officers appointed by secret associations, to carry on the war in Canada; and, as I have said already, the disturbances were so frequent and so threatening, that the United States government despatched General Scott to the frontier, to make a draft on New York for militia in order to preserve the peace of the border. And now, Sir, what was it that repressed these disorders, and restored the peace of the border? Nothing but this agreement between the two governments, that, if those "patriots" and "barn-burners" went from one side to the other to destroy their neighbors' property, trying, all the time, to bring on a war, (for that was their object,) they should be delivered up to be punished. As soon as that provision was agreed to, the disturbances ceased, on the one side and on the other. They were heard of no more. In the formation of this clause of the treaty I had the advantage of consultation with a venerable friend near me, one of the members from Michigan.† He pressed me not to forego the opportunity of introducing some such provision. He examined it; and I will ask him if he knows any other cause for the instantaneous suppression of these border difficulties than this treaty provision?

Mr. Woodbridge rose, and spoke, in reply, as follows: —

"Mr. President, I may not disregard the allusion which the gentleman has done me the honor to make to me, in reference to the inconsiderable part which I deemed it my duty to take in the matter in question. A brief statement of some facts which occurred, and a glance, simply, at the condition of that border country from which I come, will be all that the occasion seems to demand.

* The verdict on the trial was one known to the law of Scotland, though not to our law, namely, "not proven."

† Mr. Woodbridge.

Digitized by Google

"That part of Canada with which the people of Michigan are brought more immediately in contact, extends from the head of Lake Erie to Point Edwards, at the lower extremity of Lake Huron, a distance of about one hundred miles. Along this intermediate distance, the straits of Detroit and of St. Clair furnish every imaginable facility for the escape of fugitives. For their entire length, the shores of those straits, on either side, exhibit lines of dense and continuous settlement. Their shores are lined, and their smooth surface covered, with boats and vessels of all dimensions and descriptions, from the bark canoe to the steamer of a thousand tons. If the perpetrator of crime can reach a bark canoe or a light skiff, and detach himself from the shore, he may in a few minutes defy pursuit, for he will be within a foreign jurisdiction. In *such* a condition of things, no society can be safe unless there be some power to reclaim fugitives from justice. While your territorial government existed there, and its executive administration, under the control of this national government, was in the hands of my honorable colleague,* a conventional arrangement, informal undoubtedly in its character, was entered into by him with the authorities of Canada, sustained by local legislation on both sides, by which these evils were greatly lessened. When the present State government took the place of the territorial government, this arrangement of necessity ceased; and then the evils alluded to were greatly aggravated, and became eminently dangerous. Shortly before the first session of Congress, at which I attended, after the inauguration of General Harrison, a very aggravated case of crime occurred, and its perpetrators, as usual, escaped into Canada. It was made the subject of an official communication to the State legislature. And soon after my arrival here, I deemed it to be my duty to lay the matter before the Secretary of State, with a view to the adoption of some appropriate convention with Great Britain.

"The honorable Senator, then Secretary of State, was pleased to receive the suggestion favorably; but suggested to me the expediency of obtaining, if practicable, the sense of the Senate on the subject. Accordingly, I afterwards introduced a resolution here, having that object in view, and it was referred to the consideration of the Committee on Foreign Relations, of which an honorable Senator from Virginia,† not now a member of the Senate, was chairman.

"Mr. Rives expressed himself very decidedly in favor of the proposition. But negotiations having been begun, or being about to commence, with Lord Ashburton, it was not deemed expedient, I believe, that it should then be made matter of discussion in the Senate. I had not ceased to feel very earnest solicitude on the subject; and, as the

* General Cass. † Mr. Rives.

Digitized by Google

negotiation approached its termination, Mr. Webster did me the honor to send to me the *project* of that article of the treaty which relates to the subject. He desired me to consider it and to exhibit it, confidentially perhaps, to such Senators as came from border States, for their consideration, and for such modification of its terms and scope as they might deem expedient. This I did. The form and scope of the article met, I believe, with the approbation of all to whom I showed it. Nor was any modification suggested, except, perhaps, one very immaterial one, suggested by an honorable Senator from New York. Of all this I advised Mr. Webster, and the project became afterwards an article of the treaty, with but little if any variation. I believe I can throw no more light on the subject, Sir. But the honorable Senator, having intimated to me that, in his discussion of the subject, he might perhaps have occasion to refer to the part I took in the matter, I have provided myself with the copy of the message to the legislature of Michigan, of which I had in the beginning made use, and which, in order to show the extent of the evil referred to, and the necessity which existed for some treaty stipulation on the subject, I ask the Secretary to read." *

The extract having been read, Mr. Woodbridge then proceeded: "I have now only to add my entire and unqualified conviction, that no act of the legislative or treaty-making power, that I have ever known, has been more successful in its operation than this article of the treaty; nor could any provision have been attended by more happy consequences to the peace and safety of society in that remote frontier."

After this statement from Mr. Woodbridge, Mr. Webster proceeded as follows: —

I am happy to find that, in its operation, the provision has satisfied those who felt an interest in its adoption. But I may now state, I suppose without offence and without cavil, that since the negotiation of this treaty, containing this article, we have negotiated treaties with other governments of Europe containing similar provisions, and that between other governments of Europe themselves treaties have been negotiated containing that provision, a provision never before known to have existed in any

* The Secretary here read an extract from the message of Mr. Woodbridge, when Governor of Michigan, to the legislature of that State, calling its attention earnestly to the facilities which exist along the interior boundaries of the United States for the escape of fugitives from justice; and saying, that a very recent occurrence, of the most painful and atrocious character, had drawn his own attention to it, and recommending, in strong terms, that the *peculiar* situation of Michigan, in this respect, should be laid before Congress, with a view of urging the expediency of some negotiation on the subject between the United States and England.

Digitized by Google

of the treaties between European nations. I am happy to see, therefore, that it has shown itself to be useful to the citizens of the United States, for whose benefit it was devised and adopted; that it has proved itself worthy of favor and imitation in the judgment of the most enlightened nations of Europe; and that it has never been complained of by any body, except by murderers, and fugitives, and felons themselves.

Now, Sir, comes the matter of the African squadron, to which I am induced to turn my attention for a moment, out of sincere respect to the member from Arkansas,* who suggested the other day that to that article he had objection. There is no man whose opinions are more independent than those of that gentleman, and no one maintains them with more candor. But, if I understood him, he appears to think that that article gave up the right of search. What does he mean? We never claimed that right, we had consequently no such right to give up. Or does he mean exactly the opposite of what he says, that the treaty yielded to England her claim of such right? No such thing. The arrangement made by this treaty was designed to carry into effect those stipulations in the treaty of Ghent which we thought binding on us, as well as to effect an object important to this country, to the interests of humanity, and to the general cause of civilization throughout the world, without raising the difficulty attending the question of the right of search. The object of it was to accomplish all that was desirable, in a way that should avoid the possibility of subjecting our vessels, under any pretence, to the right of search. I will not dwell on this. But allow me to state the sentiments on this subject of persons in the service of the United States abroad, whose opinions are entitled to respect. A letter has been received at the Department of State, from Mr. Henry Wheaton, our minister at Berlin, in which he expresses his approbation of the arrangement alluded to as particularly satisfactory, and as adapted to secure the desired end, by the only means consistent with our maritime rights. Mr. Wheaton adds the remark, that "the policy of the United States may consequently be said, on this occasion, perhaps for the first time, to have had a most decisive influence on that of Europe." †

* Mr. Sevier.

† See Mr. Wheaton's letter in the Appendix to this Speech, No. I.

Digitized by Google

I am quite willing to rest on this opinion of Mr. Wheaton, as to the propriety and safety, the security and the wisdom, of the article in this treaty respecting the suppression of the African slave trade by a squadron of our own, against any little artillery that may be used against it here. I do not allude to the opinion of the gentleman; I have for him the highest respect. I was thinking of what is said in other comments to which I have referred. But I need not stop here. Upon the appearance of this treaty between the United States and England, the leading states of Europe did, in fact, alter their whole policy on this subject. The treaty of December, 1841, between the Five Powers, had not been ratified by France. There was so much opposition to it in France, on the ground that it gave the right of search to the English cruisers, that the king and M. Guizot, though the treaty was negotiated according to their instructions, did not choose to ratify it. What, then, was done? When this treaty of Washington became known in Europe, the wise men of France and England who wished to do all they could to suppress the African slave trade, and to do it in a manner securing in the highest degree the immunity of the flag of either, and the supremacy of neither, agreed to abandon the quintuple treaty of 1841, the unratified treaty; they gave it up. They adopted the treaty of Washington as their model; and I have now in my hand the convention between France and England, signed in London on the 29th of May, 1845, the articles of which, in respect to the manner of putting an end to the slave trade, embody, exactly, the provisions contained in the treaty of Washington.

Thus it is seen that France has borrowed, from the treaty stipulations between the United States and England, the mode of fulfilling her own duties and accomplishing her own purpose, in perfect accordance with the immunity of her flag. I need hardly say, Sir, that France is the nation which was earliest, and has been most constantly wakeful, in her jealousy of the supremacy of the maritime power of England. She has kept her eye on it, steadily, for centuries. The immunity of flags is a deep principle, it is a sentiment, one may almost say it is a passion, with all the people of France. And France, jealous, quick of perception, thoroughly hostile to any extension of the right of maritime search or visit, under any pretences whatever, has

Digitized by Google

seen, in the example of the treaty of Washington, a mode of fulfilling her duties for the suppression of the African slave trade, without disturbing the most sensitive of all her fears.

Allow me, Sir, to read the eighth and ninth articles of the treaty of Washington, and the first, second, and third articles of the convention between England and France.

Mr. Webster here read the designated articles of the treaty of Washington, and the convention between England and France.*

Mr. President, there is another topic on which I have to say a few words. It has been said that the treaty of Washington, and the negotiations accompanying it, leave the great and interesting question of impressment where they found it. With all humility and modesty, I must beg to express my dissent from that opinion. I must be permitted to say, that the correspondence connected with the negotiation of that treaty, although impressment was not mentioned in the treaty itself, has, in the judgment of the world, or at least of persons of consideration and authority in the world, been regarded as not having left the question of impressment where it found it, but as having placed the true doctrine in opposition to it on a higher and stronger foundation. The letter addressed on that subject from the Department of State to the British plenipotentiary, and his answer, are among the papers. I only wish the letter to be read. It recites the general history of the question between England and the United States. Lord Ashburton had no authority to make stipulations on the subject; but that is a circumstance which I do not regret, because I do not deem the subject as one at all proper for treaty stipulation.

Mr. Webster here read extracts from the letter, and among others this: —

"In the early disputes between the two governments on this so long contested topic, the distinguished person to whose hands were first intrusted the seals of this department ‡ declared, that 'the simplest rule will be, that the vessel being American shall be evidence that the seamen on board are such.'

"Fifty years' experience, the utter failure of many negotiations, and a careful reconsideration now had of the whole subject, at a moment

* See Appendix to this Speech, No. II. ‡ Mr. Jefferson.

Digitized by Google

when the passions are laid, and no present interest or emergency exists to bias the judgment, have fully convinced this government that this is not only the simplest and best, but the only, rule which can be adopted and observed, consistently with the rights and honor of the United States and the security of their citizens. That rule announces, therefore, what will hereafter be the principle maintained by their government. IN EVERY REGULARLY DOCUMENTED AMERICAN MERCHANT-VESSEL, THE CREW WHO NAVIGATE IT WILL FIND THEIR PROTECTION IN THE FLAG WHICH IS OVER THEM."

This declaration will stand. Not on account of any particular ability displayed in the letter which it concludes; still less on account of the name subscribed to it. But it will stand, because it announces the true principles of public law; because it announces the great doctrine of the equality and independence of nations upon the seas; and because it announces the determination of the government and the people of the United States to uphold those principles, and to maintain that doctrine, through good report and through evil report, for ever. We shall negotiate no more, nor attempt to negotiate more, about impressment. We shall not treat, hereafter, of its limitation to parallels of latitude and longitude. We shall not treat of its allowance or disallowance in broad seas or narrow seas. We shall think no more of stipulating for exemption from its exercise of some of the persons composing crews. Henceforth, the deck of every American vessel is inaccessible for any such purpose. It is protected, guarded, defended, by the declaration which I have read, and that declaration will stand.

Sir, another most important question of maritime law, growing out of the case of the "Creole," and other similar cases, was the subject of a letter to the British plenipotentiary, and of an answer from him. An honorable member from South Carolina* had taken, as is well known, a great interest in the matter involved in that question. He had expressed his opinion of its importance here, and had been sustained by the Senate. Occasion was taken of Lord Ashburton's mission to communicate to him and to his government the opinions which this government entertained; and I would now ask the honorable member if any similar cause of complaint has since arisen.

Mr. Calhoun said he had heard of none.

* Mr. Calhoun.

Digitized by Google

I trust, Sir, that none will arise hereafter. I refer to the letter to Lord Ashburton on this subject, as containing what the American government regarded as the true principle of the maritime law, and to his very sensible and proper answer.

Mr. President, I have reached the end of these remarks, and the completion of my purpose; and I am now ready, Sir, to put the question to the Senate, and to the country, whether the northeastern boundary has not been fairly and satisfactorily settled; whether proper satisfaction and apology have not been obtained, for an aggression on the soil and territory of the United States; whether proper and safe stipulations have not been entered into, for the fulfilment of the duty of the government, and for meeting the earnest desire of the people, in the suppression of the slave trade; whether, in pursuance of these stipulations, a degree of success in the attainment of that object has not been reached, wholly unknown before; whether crimes disturbing the peace of nations have not been suppressed; whether the safety of the Southern coasting trade has not been secured; whether impressment has not been struck out from the list of contested questions among nations; and finally, and more than all, whether any thing has been done to tarnish the lustre of the American name and character?

Mr. President, my best services, like those of every other good citizen, are due to my country; and I submit them, and their results, in all humility, to her judgment. But standing here, to-day, in the Senate of the United States, and speaking in behalf of the administration of which I formed a part, and in behalf of the two houses of Congress, who sustained that administration, cordially and effectually, in every thing relating to this day's discussion, I am willing to appeal to the public men of the age, whether, in 1842, and in the city of Washington, something was not done for the suppression of crime, for the true exposition of the principles of public law, for the freedom and security of commerce on the ocean, and for the peace of the world?

Digitized by Google

Appendix

No. I. — Page 143.

Mr. Wheaton to Mr. Webster.

Berlin, November 15, 1842.

Sir, — Your despatch, No. 36, inclosing copy of the treaty recently concluded at Washington, between the United States and Great Britain, has just reached me. I beg leave to congratulate you, Sir, on the happy termination of this arduous negotiation, in which the rights, honor, and interests of our country have been so successfully maintained. The arrangement it contains on the subject of the African slave trade is particularly satisfactory, as adapted to secure the end proposed by the only means consistent with our maritime rights. This arrangement has decided the course of the French government in respect to this matter. Its ambassador in London notified to the conference of the five great powers the final determination of France not to ratify the treaty of December, 1841, and, at the same time, expressed her disposition to fulfil the stipulations of the separate treaties of 1831 and 1834, between her and Great Britain. The treaty of 1841, therefore, now subsists only between four of the great powers by whom it was originally concluded; and as three of these (Austria, Prussia, and Russia) are very little concerned in the navigation of the ocean and the trade in the African seas, and have, besides, taken precautions in the treaty itself to secure their commerce from interruption by the exercise of the right of search in other parts, this compact may now be considered as almost a dead letter.

The policy of the United States may consequently be said, on this occasion, perhaps for the first time, to have had a most decisive influence on that of Europe. This will probably more frequently occur hereafter; and it should be an encouragement to us to cultivate our maritime resources, and to strengthen our naval arm, by which alone we are known and felt among the nations of the earth.

Digitized by Google

No. II. — Page 145.

Treaty of Washington. — [*Extract.*]

ARTICLE VIII. — The parties mutually stipulate, that each shall prepare, equip, and maintain in service, on the coast of Africa, a sufficient and adequate squadron, or naval force of vessels, of suitable numbers and descriptions, to carry in all not less than eighty guns, to enforce, separately and respectively, the laws, rights, and obligations of each of the two countries, for the suppression of the slave trade; the said squadrons to be independent of each other, but the two governments stipulating, nevertheless, to give such orders to the officers commanding their respective forces as shall enable them most effectually to act in concert and coöperation, upon mutual consultation, as exigencies may arise, for the attainment of the true object of this article: copies of all such orders to be communicated by each government to the other respectively.

ARTICLE IX. — Whereas, notwithstanding all efforts which may be made on the coast of Africa for suppressing the slave trade, the facilities for carrying on that traffic and avoiding the vigilance of cruisers by the fraudulent use of flags, and other means, are so great, and the temptations for pursuing it, while a market can be found for slaves, so strong, as that the desired result may be long delayed, unless all markets be shut against the purchase of African negroes, the parties to this treaty agree that they will unite in all becoming representations and remonstrances, with any and all powers within whose dominions such markets are allowed to exist; and that they will urge upon all such powers the propriety and duty of closing such markets effectually, at once and for ever.

Convention between her Majesty and the King of the French for the Suppression of the Traffic in Slaves. — [*Extract.*]

ARTICLE I. — In order that the flags of her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and of his Majesty the King of the French, may not, contrary to the law of nations and the laws in force in the two countries, be usurped to cover the slave trade, and in order to provide for the more effectual suppression of that traffic his Majesty the King of the French engages, as soon as may be practicable, to station on the west coast of Africa, from Cape Verd to 16° 30′ south latitude, a naval force of at least twenty-six cruisers, consisting of sailing and steam vessels; and her Majesty the Queen of the United Kingdom of Great Britain and Ireland engages, as soon as may be practicable, to station on the same part of the west coast of Africa a naval

Digitized by Google

force of not less than twenty-six cruisers, consisting of sailing vessels and steam vessels; and on the east coast of Africa such number of cruisers as her Majesty shall judge sufficient for the prevention of the trade on that coast; which cruisers shall be employed for the purposes above mentioned, in conformity with the following stipulations.

Article II. — The said British and French naval forces shall act in concert for the suppression of the slave trade. It will be their duty to watch strictly every part of the west coast of Africa, within the limits described in Article I., where the slave trade is carried on. For this purpose they shall exercise fully and completely all the powers vested in the crowns of Great Britain and France for the suppression of the slave trade, subject only to the modifications hereinafter mentioned as to British and French ships.

Article III. — The officers of her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and of his Majesty the King of the French, having respectively the command of the squadrons of Great Britain and France, to be employed in carrying out this convention, shall concert together as to the best means of watching strictly the parts of the African coast before described, by selecting and defining the stations, and committing the care thereof to English and French cruisers, jointly or separately, as may be deemed most expedient; provided always, that, in case of a station being specially committed to the charge of cruisers of either nation, the cruisers of the other nation may at any time enter the same for the purpose of exercising the rights respectively belonging to them for the suppression of the slave trade.

Digitized by Google

Organization of the Volunteer Force*

Mr. President, — I am not at all surprised at the introduction of this bill. For aught I know, it is a necessary one; but it shows, at all events, that the law which it is intended to amend and improve is but a piece of patchwork. That law was not passed for calling into the service of the United States the militia of the country, nor was it passed in the regular exercise of the power conferred upon Congress for raising and maintaining an army. It was a mixed, an anomalous, an incongruous system, as, I will venture to say, this early occasion for its modification proves it to be, and as will be made abundantly evident before the war with Mexico is ended.

I shall not oppose the progress of this bill. I cannot say it is unconstitutional, though I think it is irregular, inconvenient, and not strictly conformable to the exercise of the constitutional power of Congress. If those who are charged with the conduct of the war, and are answerable for its results, think it necessary, I shall not oppose it. But I will take the occasion now presented, Sir, of the second reading of an important bill respecting the troops called into the service in order to carry on the war, to make a few remarks respecting the war itself, and the condition in which we find ourselves in consequence of that war. The war continues; no man can say definitely when it will end; and no man can say, upon any reasonable estimate, what expense will be incurred before its conclusion.

We have received a very important communication from the President, I mean his message of the 16th of June, setting forth

* Remarks in the Senate, on the 24th of June, 1846, on "A Bill to provide for the Organization of the Volunteer Force brought into the Service of the United States."

Digitized by Google

his views and opinions, and the views and opinions of the Secretary of the Treasury, with respect to the means and sources of revenue for carrying on the war. Upon this, Sir, as well as upon one or two other subjects connected with this bill, I have a few remarks to make.

The executive is responsible for the conduct of the war, and for the application of the resources put at his disposal by the two houses of Congress for the purpose of prosecuting it. For one, I shall not deny the government any supplies which may be considered necessary. Whatever may be thought of the origin of the war, the fact that war does exist is itself a sufficient reason for granting the means for prosecuting that war with effect. Those who condemn the origin of the war, and those who most earnestly long for its termination, will all agree that the refusal of supplies would make no amends for what some lament, and would not hasten what I hope all desire.

The message of the 16th of June informs the Senate and the country, that, for the fiscal year ending July, 1847, there will be, under the operation of the existing law for raising revenue, a deficiency, if the war continues, of twenty millions of dollars, and suggests the ways and means by which it is expected that this deficiency will be made good. I refer to these suggestions for the purpose of making a few observations upon them.

The object is to provide new sources of revenue, which shall realize an amount, beyond that furnished by the provisions of the existing law, of twenty millions of dollars, between this time and the 1st of July next year. That is the object. The first suggestion in the communication from the executive government is, that five millions and a half may be produced by reducing the rates of duties on certain imported articles, and by laying new taxes on certain other articles now free of all duties; meaning principally, I suppose, by those articles now free, and which are to be taxed, tea and coffee. There is also an intimation or an opinion expressed by the Secretary of the Treasury, that a million of dollars will accrue to the treasury under the operation of the warehouse bill, if that bill should become a law. In the next place, it is estimated that, if the bill for graduating the price of the public lands shall become a law, the augmentation of the sales will so far counterbalance any losses incurred in the

Digitized by Google

reduction of price, as on the whole to produce half a million of dollars more than would otherwise be obtained from that source. These several sums put together would leave a balance of twelve million five hundred and eighty thousand dollars still to be provided for, and a provision for this balance is contemplated either by loans or by an authority to the treasury to issue treasury-notes, or both, with a distinct recommendation and preference, however, for the authority to issue treasury-notes.

Now, Sir, with an anxious desire that the country shall be led into no mistaken policy in regard to this very important subject of revenue, a subject always important, and intensely important in time of war, I will take occasion to suggest, in very few words, what occurs to me as important to be considered upon these several topics.

In the first place, there is no doubt that a tax properly laid upon tea and coffee will be productive of a clear positive revenue. But this will depend upon two things; first, upon the amount of the duty; and, secondly, upon the mode of laying it. The first is obviously a matter for consideration; and in regard to the second, I suspect that gentlemen who are desirous of raising revenue by this means will find their calculations fallacious unless they make the duty specific. In my opinion, an *ad valorem* duty will disappoint their hopes of any considerable amount of revenue. If I mistake not, under such a system it will be soon found that teas made up in Canton for the New York market will become wonderfully cheap. A specific rate per pound will undoubtedly make the duty productive of revenue.

I doubt not that treasury-notes may be available for the uses of the government to a considerable extent. I do not mean as revenue or income, but as instruments or facilities for the transfer of balances, and as proper to be used in anticipation of taxes or sources of income. In regard to this I would say, simply, that, if it be the purpose of the government, as has been intimated to us for some time, to resort to the issue of treasury-notes, I think the loss of a single day, especially the loss of a single week, will turn out to be quite inconvenient; that is, if the issue of treasury-notes is considered the best and safest, if they can be used by the treasury under authority of law, before the money in the possession of the government is exhausted.

Digitized by Google

All I wish to say is, that I earnestly recommend to the Committee on Finance to bring in a bill by itself for the issue of treasury-notes immediately. I believe it has been as usual as otherwise for such laws to originate in the Senate; there is no constitutional impediment to such a course, and I hope that these and other important measures, such as the modifying of taxes and laying new ones, will not be suffered to lag along through Congress in a general omnibus bill. Where the subjects are distinct, they should be kept separated; and where they are simple and plain, they should be acted on promptly.

Having said this much of those two sources of assisting the revenue, the tax upon tea and coffee and the issue of treasury-notes, both of which I admit to be efficient, and probably certain in their operation, I have now to say that other matters, suggested and relied on in the communication I have referred to, I consider conjectural, uncertain, and not fit to be the basis of provisions incumbent on us to make, before we leave our seats here, to place the executive in a proper condition to carry on the war. I suppose the calculation will be that a considerable amount will be secured by a reduction of the duties upon articles already taxed, upon the supposition that the importation will be so much increased as to increase the aggregate receipts. I will not say that this is not a well-founded opinion; I have all proper respect for the source from which it comes; but I will venture to say that it is but an opinion; it hardly amounts to the character of an estimate, for want of certain and positive foundation. We have no experience from which we can derive a satisfactory conviction that such will be the result. If I were responsible, I should not choose to place reliance to any extent upon this plan.

The next increase is to come from the operation of the warehouse system. I consider this equally void of any certain foundation to rest upon. I do not see how a million of money, in addition to the present income, is to be derived from admitting goods into the country, to be carried out again without paying any duty whatever. I really do not conceive that the facility of carrying goods through the country, without the payment of duty, is going to produce us a million of dollars. This is a matter of which I should like to see minute details; I should like to see calculations made by which this result is expected to

Digitized by Google

be accomplished. At present I do not see the practicability of it.

And so in regard to the public lands. It may be that the passage of a graduation bill would so enhance the disposition to buy by reducing the price, as considerably to increase the quantity sold; but that that increase will be so great as to produce an overplus of half a million, or any other sum, notwithstanding the diminution of price, is, I think, a matter of opinion which cannot be relied upon. So that these sources of income appear to me rather too uncertain to be the foundation of any satisfactory provisions; there appears rather too much risk in making mere opinions, not to say conjectures, the basis of legislation for producing revenue for the purposes of government.

The truth is, that, if this war continues, we must have a substantial taxation, or we must incur a public debt. We cannot look to treasury-notes as revenue; if they bear interest, and are payable at a distant day, they become of course a public debt. There must, then, be a substantial tax, or there must be a public debt, if the war continues. Our expenses are very great. I do not say they are unnecessary; I make no imputation of that sort at present. I am not sufficiently acquainted with the particulars; but I stated here some time ago, upon the credit of others, that of which I am perfectly convinced, that our expenses have been half a million of dollars a day. Forty days ago we passed an act declaring that war existed, and authorizing the calling out of fifty thousand volunteers. Well, Sir, I have a full conviction that the military expenditures of the government, the expense of raising, equipping, and transporting the force which has already been called out, will be found to amount to twenty millions, or very nearly that sum, at this moment. Some portions of our warlike preparations are peculiarly expensive, I mean the regiments of mounted volunteers. They are necessary, I suppose, for the nature of the service; but there was a document published here, a communication, I think, from the War Department, when Mr. Poinsett was Secretary, in which it was estimated, if I mistake not, that one regiment of mounted riflemen in regular service cost the government per annum as much as three regiments of infantry, each composed of the same number of men. And there is good reason to believe that these occasional regiments of volunteers will be still more ex-

Digitized by Google

pensive. Almost every circumstance connected with this war is calculated to increase the expense. The vast distance to be traversed makes the cost of transportation very great; and it becomes the duty of Congress to provide for this extraordinary expense. I do not say that the expense ought not to be incurred. I only say that, from the nature of the war, the expense must necessarily be very great. And I take this occasion to say, that I have seen with great pleasure the alacrity with which volunteers have rushed to the public service. A spirit of patriotism and devotion to the country's interest has been manifested of which we may justly be proud.

But upon these sources of revenue let me make another remark, though perhaps it is too obvious to require notice. For one half the deficiency the government proposes to rely on treasury-notes or loans. Well, if this be so, then, of course, I suppose the idea of pressing for the present the independent treasury, or sub-treasury, must be abandoned by every one; for what would be the use of treasury-notes under a sub-treasury plan of finance? The issue of treasury-notes would be perfectly inconsistent with the sub-treasury system. It is quite plain that, if the government, for its own use, is driven to the necessity of issuing paper, it can have no occasion to make provision for locking up its treasures. The sub-treasury system makes it penal to issue or receive any thing but specie. They are, therefore, entirely inconsistent with each other.

With respect to loans, I beseech gentlemen not to deceive themselves. There is money enough in the country, it is true, and the credit of the government will be good if we lay such taxes as will produce revenue; but if gentlemen suppose that a loan is to be contracted in this country for the use of the government, to be paid in specie, in the expectation that that specie is to be locked up, they will find themselves mistaken. Those who hold capital will consent to no such thing. If the government makes a loan, it must be made in the ordinary way, payable by instalments or otherwise, under circumstances that will show that this amount of money is not to be drained from all the operations of the business community. I take it for granted, then, if loans are to be made, the new method of keeping the public money must be abandoned.

And now, Sir, having said this much in relation to the ideas

Digitized by Google

communicated to us respecting the mode of raising revenue, I desire to add, that, in my judgment, the time has come to ask for the object, and character, and purposes for which the war is hereafter to be conducted. The people of this country, while they are willing to pay all needful expenses; while they are desirous of sustaining the glory of the American arms; while they are ready to defend every inch of American territory, and maintain all the essential rights of their country; the people, if I do not misread their desires, now wish to know the specific objects and purposes and ends for which this war is further to be carried on. There is not now a hostile foot within the limits of the United States. Our army, at first an army of observation, then an army of occupation, has become an army of invasion; I will not say unjust invasion; but it is encamped at this moment beyond the limits of the United States, and within the acknowledged territory of Mexico; and, if we may credit the rumors which have recently reached us, a purpose is entertained of marching immediately and directly to the city of Mexico.

The people, as I have said, appear to me to demand, and with great reason, a full, distinct, and comprehensible account of the objects and purposes of this war of invasion. The President, by two messages, one of the 13th of May, and the other of the 16th of June, signifies that he is ready to treat with Mexico upon terms of peace; while it appears, at least as far as we know now, that Mexico is not willing to treat. In regard to this, I must say that, in my judgment, if this be the state of the case, Mexico is acting an entirely unreasonable and senseless part, and the government of the United States, to this extent, is acting a proper one; that is to say, as the war does exist, and the American government is ready to treat, without prescribing terms, so as to show that her terms would be unacceptable, and Mexico declines to treat, why then so far the conduct of the United States is reasonable, and the conduct of Mexico unreasonable and senseless. I would desire on all such occasions, for many reasons, and in this case for two more than the rest, to keep our country entirely in the right, and to satisfy every individual in the country that it is in the right, and that it desires nothing wrong; and I would advise, if I were called on to give advice, that this government should tender a formal solemn embassy to Mexico. The two reasons which would influence

Digitized by Google

me are, in the first place, Mexico is weak and we are strong; it is a war, therefore, on her part, against great odds; and, in the next place, Mexico is a neighbor, a weak neighbor, a republic formed upon our own model, who, when she threw off the dominion of old Spain, was influenced throughout mainly by our example. We certainly wished her success; we certainly congratulated her upon her change from a viceroyalty to a republic upon our own model. We wished her well; and I think now that the people of the United States have no desire, it would give them, I think, no pleasure, to do her an injury beyond what is necessary to maintain their own rights. The people of the United States cannot wish to crush the republic of Mexico; it cannot be their desire to break down a neighboring republic; it cannot be their wish to drive her back again to a monarchical form of government, and to render her a mere appanage to some one of the thrones of Europe.

This is not a thought which can find harbor in the generous breasts of the American people. Mexico has been unfortunate; she is unfortunate. I really believe the Mexican people are the worst governed people in Christendom. They have yet to learn the true nature of free institutions. Depressed and ruined by a dominant military power, maintaining an army of forty thousand troops, how can a government, limited in its resources as that of Mexico, flourish? It is impossible. She has been unhappy, too, in the production, or rather the non-production, of men to guide her counsels. I am sorry to say it of a republic, but it is nevertheless true. Mexico has produced few or no really enlightened, patriotic men. I verily believe, and I sadly fear, that history will hereafter record the melancholy truth, that, from the time of the establishment of an independent government, the people of Mexico have been worse governed a great deal than they were under the viceroyalty. No body can wish to see her fall; but Mexico must hear the suggestions of reason. She must listen to terms of peace; this she ought to know. And if her government be not hopelessly stupid and infatuated, they must be aware that this is her true interest. Nothing can exceed, I have always thought, the obstinacy and senselessness manifested by Mexico in refusing for so many years to acknowledge the independence of Texas. A correspondence between this government and Mexico upon that subject took

Digitized by Google

place at a time when I had something to do with the administration, so that my attention was particularly directed to the course of conduct pursued by Mexico, and it struck me as resembling, though it was much more senseless, the conduct of old Spain in attempting for many years to reconquer the people of the Low Countries after they had declared their independence.

Mexico must be taught that it is necessary for her to treat for peace upon considerations which belong to the present state of things. We have just claims against her, claims acknowledged by herself in the most solemn form of treaty stipulations. She ought to make provision for the payment of those claims; in short, she must be brought to justice. I am not one of those who would do her an injustice; but it does appear to me that, if, after all that has occurred, she still persists in refusing to receive an American minister on the ground that it was through the fault of the United States that she lost Texas, she will be acting a very unreasonable part.

As to her enlisting the sympathy of foreign powers, I have not the least belief that any power stands behind Mexico. I have not the least belief of her possessing the assurance of any power, that, if she will hold on in the contest, foreign aid will be sent to her. I think the whole policy of the governments of Europe takes a different turn. I believe that they think, and especially England, that it is for their interest to have Mexico at peace; in a state of active industry, cultivating her resources, multiplying her products, and increasing her ability to purchase from them. I believe that this will soon be the declared policy of the British government, as it is undoubtedly the true policy of all governments. I believe, therefore, that if Mexico rests upon any hope that by and by aid and succor will come from foreign sources, that hope will entirely fail.

The newspapers speak of mediation. I doubt whether there is much truth in that; if, however, any offer of mediation be made by the best friend Mexico has, it must come down to this at last, that she must treat for peace. For one, I would vote for a suspension of hostilities to the end that negotiation might take place; and if I were to advise, I would say, make her an offer of a formal embassy. I would be for keeping ourselves entirely in the right. We can afford to do so; we can lose

Digitized by Google

nothing in dignity by it. It is not stooping on our part, because all the world knows that the contest is very unequal. If she will consent to this, I say meet her in negotiation, and in the mean time suspend military operations. But if she will not do this, if she persists foolishly and senselessly in carrying on the war; if she prefers war to peace, then, of course, she must have war, vigorous war, until she is compelled to adopt a different line of conduct.

Digitized by Google

The Tariff*

Mr. President, — It will be denied by none, that this subject is important in various respects. The bill before the Senate is one which seriously affects, for good or for evil, the revenue of the country, and this in time of war. It also affects the interests, occupations, and pursuits of a vast number of the people of the United States. I may add, that the great principle on which it is founded as a revenue bill, that is to say, that hereafter all duties of customs shall be levied by an assessment *ad valorem*, is an entirely new and untried principle in this government. I may say, too, in respect to the principal practical measure of this bill, that its rates of imposition, and its distribution of duties upon the several articles of import, are quite new. And I suppose I may add, without offence to any gentleman or any party, what I think must appear evident to all who will examine the bill, that it is not drawn with remarkable care, either for the purpose of securing a just collection of the revenue itself, or for a proper distribution of taxes and assessments on importations, according to the principle of the bill itself.

Mr. President, it appears strange, but after all we must admit the fact, that the appearance of this bill in the Senate, with a prospect of its passage, has struck the people generally with surprise. It has brought about no small degree of alarm. The public expectation was not prepared for it. I do not say that there had not been enough of previous admonition or indication. I speak of the fact, and I think it must be the conviction of every person who hears me, who has observed the development of public sentiment since the introduction of this measure,

* A Speech delivered in the Senate, on the 25th and 27th of July, 1846, on the Bill "to reduce the Duties on Imports, and for other Purposes."

Digitized by Google

that the country is surprised, greatly surprised, at any probability that it should receive the final sanction of Congress and the President. Now, Sir, it seems to me that, in this state of things, with such a measure before us, at this advanced season of the year, when there is no pressing necessity for immediate action, the true policy is to postpone its further consideration. If this were a measure to raise money to carry on a war, if it were a measure of taxation, to authorize the contracting of loans, the issue of treasury-notes, or any other measure which had for its object the supply of means to meet the necessities of government, why, then the exigencies of the case might be a very just motive for proceeding to its immediate consideration. But there is no man within the hearing of my voice, and I am happy that there are some within its hearing who are not of this chamber,* who will say that the treasury will not be as competent, the ability of the government as great, its arm as well nerved to prosecute the war in which we are engaged three months longer, if this bill should not pass, as if it should. Therefore, it seems to me to be a case for further consideration; and, at the close of the remarks which I propose to submit to the Senate, I shall move the postponement of the measure till the next session of Congress.

As a revenue measure, I have heretofore stated shortly my opinion of it. I think it must deceive the hopes of those who expect to derive from it that measure of abundant revenue which has been stated. There can be, in my judgment, no such extraordinary increase of importations as the executive government seems to anticipate. It is not in the nature of things. The treasury cannot, in my opinion, be supplied at the ratio which has been stated, and is expected, by any probable, I will say possible, augmentation of importations. But then, Sir, when I say this, I am met by very extraordinary language. Those who are supposed to express the sentiments of the executive say, that that is a question with which Congress has nothing to do, nothing at all! That is a question which the administration alone is to consider! *We* need give ourselves no trouble; the administration will take care of itself! Hear the language of the official organ of the government:—

* Referring to Mr. Secretary Walker, who was present, occupying the seat of one of the Senators.

Digitized by Google

"The opponents of the administration complain that the law cannot be fairly administered; and so that deficit will be enlarged by frauds. Now, in reply to this, we urge that these are matters in which the opposition may, as we think, very properly leave the administration to look out for its own interests, and take care of itself. If the government measure is about to injure the country, to break up the business of men, and throw their affairs into confusion; or if, again, the measure proposed by the government is in itself oppressive, or unjust, or unequal; or if the country want a tariff for protection, instead of a tariff for revenue, then it is very proper for an opposition, speaking in behalf of the country, to demonstrate such to be the case. But our opposition seems to have a most parental and guardian anxiety lest the administration, if left to itself, should hereafter find itself embarrassed for want of funds."

Why, Sir, who is it that writes, who is it that dictates, who is it that sanctions, such presumption, such arrogance, such folly as this? The Congress of the United States nothing to do with the assessment and collection of the revenue, and all the interests connected with revenue? That altogether an affair of the administration? Sir, Congress, it seems, has appropriated at this session some fifty or sixty millions of dollars for military and naval and other purposes; but it is no affair of Congress whether the treasury shall be competent to fulfil these appropriations! We have a public debt; we have issued treasury-notes; but it is no affair of Congress whether the public credit shall be sustained, its obligations redeemed, or these treasury-notes paid; that 's an affair of the administration only! We may trust to the administration to take care of all these things, while it takes care of itself!

Sir, I have great respect, all degree of personal respect, and proper official respect, for the persons composing the administration; but when I am asked, whether the great interests connected with the revenue of this country, the security of the public faith, the means of fulfilling the appropriations of Congress, the means of maintaining armies and navies in time of war, shall be properly provided for; and when I am asked to trust all these great and momentous interests to the responsibility of a respectable President and a respectable Secretary of the Treasury, I pause; I forbear from that degree of confidence and homage. As a member of Congress, constituting a very humble part of the legislative power, but intrusted, constitutionally, with

Digitized by Google

a participation in the duty of levying taxes to pay the public debt, maintain the army and navy, and provide for the general defence, I must be permitted not to defer my conscientious discharge of that duty to the personal and political responsibility of the members of the administration, one or all, however respectable.

Sir, I have said that, in my opinion, there can be no such augmented income from importations as is relied upon. I will not go into this subject at large. It has been discussed satisfactorily, ably, I will say admirably, by gentlemen on this floor who have preceded me. I refer particularly to the incomparable speech of my friend, a member of the Senate from the State of Maine.*

And now, Mr. President, since my attention has been thus called to that speech, and since the honorable member has reminded us that the period of his service within these walls is about to expire, I take this occasion, even in the Senate, and in his own presence, to say, that his retirement will be a serious loss to this government and this country. He has been sixteen or eighteen years in the public service. He has devoted himself especially to studying and comprehending the revenue and the finances of the country; and he understands that subject as well as any gentleman connected with the government since the days of Crawford and Gallatin. Nay, as well as either of those gentlemen ever understood it. I hope he may yet be, I am glad to know that he will be, with us one session more; that we may have the benefit of his advice and assistance in that financial crisis which, in my judgment, is sure to arise if this war continues, and this bill should pass. And I can only say, that, retire when he will, he will carry with him the good wishes of every member of this body, the general esteem and regard of the country, and the cordial attachment of his friends, political and personal.

Those who indulge the hope of an augmentation to the extent stated, from increase of exportations, seem to forget altogether, what is as common a truth as any other, that there can be such a thing as over-production. But it has happened many times within my experience in public life. There may be produced in England and in this country more manufactured arti-

* Mr. Evans.

Digitized by Google

cles than both countries together, with all that they can sell to the rest of the world, can consume or dispose of, and that creates what is commonly called a "glut" in the market. Such instances have been frequent. That there is an indefinite power of consumption is necessarily assumed by all those who think that an indefinite extent of importation may be expected. The honorable member from Maine stated with great truth and propriety, that the augmentation of imports, drawing after it, or supposed to draw after it, an augmentation of exports, went upon the ground of an augmented consumption on both sides. Now be it ever remembered that there is a limit to the power of consumption, both on one side and the other. Over-production has happened frequently. It may happen again, and therefore it is that I hold it to be exceedingly uncertain and fallacious to rely for revenue, in time of war, upon a matter so theoretical, as that we shall have a vast augmentation of importations, with capacity to pay for them, and a desire to consume them. I think that, if such an importation should take place, which I do not expect and cannot anticipate, we could not pay for it. Sir, what are our means of paying for the importations of foreign manufactured articles in this country? They are two. They are our exports, in the first place, and they are the earnings of freight, or of navigation, in the second place. By carrying out our exportations, we earn a freight. By bringing foreign commodities home, we earn a freight. Our ability, therefore, to discharge foreign debt incurred by importations, consists in the extent of our exports, and of our earnings of freight. If there be a demand for means beyond these, it must be met by a drain of the common currency of the world, specie, to the extent that we possess it, or so far as may be necessary. I take that to be the undoubted truth.

Well, now I will say a word upon this matter of expected importations, although I do not intend to go at any length into the subject. I beg the attention of the honorable member at the head of the Committee on Finance, and all others, to a consideration which I hope has been well weighed. Has it been considered, or has it not, what will be the loss of revenue for the ensuing quarter, if this bill pass, by debenture and reëxportation? There is in the country a vast quantity of merchandise, imported at high duties. After the first day of December next,

Digitized by Google

if this bill passes, all such commodities will come in at a greatly reduced duty. It is now all liable to reëxportation and debenture. Take the case of brandies, (and there are many others mentioned in a memorandum furnished to me from a very respectable source in New York, altogether friendly to the government,) and look to probabilities. Brandies now pay one dollar a gallon, having been purchased at fifty cents per gallon; by the present bill, the duty is reduced to one hundred per cent. *ad valorem;* that is to say, to fifty cents. There is, then, fifty cents to be made on every gallon of brandy in the United States, if it can be carried out of the country now, and brought in on the 1st of December next. Such being the case, it will go to Cuba or to Canada, and be returned when December comes. So of carpets, and many other articles. I beg to ask, Sir, whether the amount of losses on these articles, to be incurred in this way, has been considered. I know that there has been a general estimate of the treasury, as to what will be the amount of revenue under this bill, and under the proposed deductions from the rates of the bill of 1842; but I will ask, whether it has been known, and is now known, that on brandies, and on spices, pimento, and articles of that sort, a loss of two or three millions will occur under this tariff? I have in my hand a calculation, from good authority, showing the probability of such a loss.

But all losses of revenue caused by reduction of duties are to be made up, it is expected, by the increased amount of our importations. I will only say, in answer to this view, that we have no means of paying for this expected increase of importation, but by exports and freight. Now, how are we to increase our exports? Not in manufactured goods, which now constitute a considerable part of our exportations, because this bill is an axe laid to the root of that productive tree. It seeks to strike down at once the main interest which sustains these exportations. It is not, therefore, from manufactured goods that we can expect this increase. Well, then, from what can we expect it? Why, we have some national articles of export; cotton, tobacco, and some others of the nature of raw materials, or raw products. Now does any body suppose that twenty, thirty, or forty millions of augmented exportation of cotton and tobacco can possibly take place? Allow me to put the question to those concerned, those practically concerned, in this great interest. As the

Digitized by Google

product of cotton increases, the tendency in the price is downwards; therefore, *non sequitur*, that, if we produce so many more million pounds of cotton, just in that extent do our means of importation increase. The question is, whether there is any reasonable expectation whatever, that we shall so increase our exports of cotton, as that the value of the cotton exported shall amount to twenty, thirty, or forty millions of dollars additional? Does any man believe it?

We are in our policy, as is supposed, falling into a conformity with the proposition offered in the English Parliament for the repeal of the corn laws. We are greatly to increase, it is said, our exportation of wheat and Indian corn to England. On that point it will be more convenient for me to speak in another part of my remarks. But now as to the freight, which, as I have said, constitutes one of our means of paying for foreign commodities; what chance is there for the increase of freight? Why, the effect of this bill is to diminish freights, and to affect the navigating interests of the United States most seriously, most deeply; and therefore it is that all the ship-owners of the United States, without an exception so far as we hear from them, oppose the bill. It is said to be in favor of free trade and against monopoly. But every man connected with trade is against it; and this leads me to ask, and I ask with earnestness, and hope to receive an answer, At whose request, at whose recommendation, for the promotion of what interest, is this measure introduced? Is it for the importing merchants? They all reject it, to a man. Is it for the owners of the navigation of the country? They remonstrate against it. The whole internal industry of the country opposes it. The shipping interest opposes it. The importing interest opposes it. Who is it that calls for it or proposes it? Who asks for it? Has there been one single petition presented in its favor from any quarter of the country? Has a single individual in the United States come up here and told you that his interest would be protected, promoted, and advanced by the passage of a measure like this? Sir, there is an imperative unity of the public voice the other way, altogether the other way. And when we are told that the public requires this, and that the people require it, we are to understand by the public certain political men, who have adopted the shibboleth of party for the public, and certain persons who have symbols,

Digitized by Google

ensigns, and party flags, for the people; and that 's all. I aver, Sir, that is all. I call upon any man who is within these walls to stand up and tell me what public interest, what portion of men of business; who, amongst all those who earn their living on the sea or on the land, in the field of agriculture, or in the workshop of the artisan; who, amongst them all, comes up here and asks for such a measure as this? Not a man. If there are any persons out doors in favor of this bill, why, then, Sir, I can only say that silence is contagious, and its friends out doors are as mute as its friends in doors.

It does appear to me, then, that we are to make this alteration in our whole system of revenue, we are to bring this great change over all the departments of private life, we are to produce unknown effects on all the industrial classes of the community, upon a mere theory, an assumption, which suggests that all the interests of the country are severely taxed to maintain the manufacturers. I must say, Sir, that the notions which prevail in the Treasury Department and in the executive government appear to me to be almost insane. We were told, at the early part of the session, that the taxed portion of the community paid fifty millions to the manufacturers; it has now got up to ninety-four millions! Mr. President, if intelligent men, of patriotic purposes, good intentions, and great respectability in many walks of life, private and public, ever were seized with a monomania, that disease has taken a strong hold of those who come to us with such statements and sentiments as these. How else can we account for such a zeal for over-importation; a zeal which looks for a paradise on earth, if we can only be surrounded with British manufactures without stint and without count? The love of importation has become a sort of passion with those at the head of affairs; an unthinking, headlong passion. I repeat, Sir, there is no public demand or public desire manifested for this bill. Then, since it is not called for by any exigency in the government, (for nobody will deny that the government will go on quite as well without it, if not better,) since it is not called for by any demand of the people, can we justify ourselves, by any one single fact or consideration, for making all the change in the revenue and the business of the country which this bill evidently must introduce?

In submitting my views on this subject to the Senate, I pro-

Digitized by Google

pose, Sir, in the first place, to consider the bill as a measure for making all duties on imported goods *ad valorem* duties.

Secondly, to consider its effects on certain interests supposed to be protected by former and now existing laws.

Thirdly, I propose to consider its effects upon the navigation and commercial interests of the country, a topic of very deep interest, which has not as yet been fully considered in this discussion.

Fourthly, I propose to consider its effect on the great industrial employments and labor of the people.

I must be permitted to say, with great respect for gentlemen on the other side, that I enter upon this discussion under some disadvantages. We do not hear from them. We hear no defence of this bill. An honorable member from South Carolina* has said, that "the bill vindicates itself." That is so far true as this, that if it do not vindicate itself, it is not vindicated at all. Nobody here stands sponsor for it. Nobody here answers the objections which are urged against it. I see on the opposite side, Sir, gentlemen of the highest character in this country and of the longest experience in this government, gentlemen who have debated questions, great and small, for thirty years, gentlemen properly considered as being amongst those from whom selection is to be made for the highest honors in the gift of the people; and yet on this question, as important, I will undertake to say, as any which has been discussed in Congress from the formation of the Constitution, we hear from those gentlemen not a word, not one single word. They hear us patiently. They appear to be attentive and thoughtful. But they have "charactered" in their memories at least one of the precepts of Polonius, "Give thy thoughts no tongue!" They "give their thoughts no tongue." I trust they will remember the next, "nor any unproportioned thought his act." They are obedient to the instructive adage, "Be checked for silence, but never taxed for speech." They do not mean to be taxed for speech, whatever else they may be taxed for.

Now, it is not for me to put it to those gentlemen, it is a consideration which, if it arise at all, must arise in their own bosoms, whether they can stake their reputation on this meas-

* Mr. McDuffie.

Digitized by Google

ure, indorsed, as it is, by them, and yet make no defence of it? Are they willing that their votes should go forth without their reasons? That they must decide for themselves. But I may well ask this. We are, in the contemplation of the Constitution, all here holding common counsel. We come hither to confer, to exchange ideas, to be instructed and informed, if we may, by an interchange of sentiment. But we have no consultation, no conference, no exchange of ideas. Our friends on the other side will neither adopt our reasons nor offer their own. We speak, but they remain dumb. But if they see grounds upon which they can vote for this bill with propriety and safety, why will they not state those grounds to us? If, to all that is urged against this measure on our side, answers arise spontaneous in their breasts, why not give them audible expression? We state our reasons; we ask for theirs; we get no reply. We say, having offered our own sentiments:

> "Si quid novisti rectius istis,
> Candidus imperti; si non, his utere mecum."

But they will not impart their clear perceptions to us. The superior light that illuminates their own breasts, and enables them to see that the bill is safe for the country and proper for the occasion, sheds no rays upon us. They are as silent as they will be fifty years hence.

Mr. President, I now proceed to that branch of the subject to which I propose first to call the attention of the Senate. The principle of this bill is to collect all duties and customs by a universal *ad valorem* assessment; not an equal assessment, it is true, but still a system of *ad valorem* duties, entirely. Now that has not been the practice of the government at any time since its organization. In every administration, from that of Washington down, a contrary system has always prevailed. And the desire of those who have successfully formed and administered the laws in this respect has been, uniformly, to carry the principles of specific duties as far and as fast as circumstances allowed. That I take to have been the policy of the government from the first; and it has been the sentiment of all connected with the government, so far as I know. I ought, perhaps to make an exception in the case of Mr. Clay. I said here, the other day, that I had never heard a public man advocate a

Digitized by Google

system of *ad valorem* duties. The newspapers say (perhaps correctly) that I was mistaken; that Mr. Clay made remarks favorable to that idea in the year 1842. I was not in the Senate at that time, and I did not know that such sentiments had ever been expressed by him; and if they are correctly reported, I am very sorry that such was the case.

Mr. Crittenden here said, "Will the Senator pardon me while I interrupt him for a moment, in order to offer an explanation? Mr. Clay's remarks had reference solely to home valuation."

Ah! that explains the whole matter, and it is a great relief to my mind. I am very much obliged to the honorable Senator. Mr. Clay's proposition, then, was, "If you will bring the article here, and value it here, independent of the foreign invoice, why then I will take that system of valuation." Well, that proposition and this are wide as the poles apart. That qualification of the principle makes it sensible, at least, and far less objectionable, as a revenue measure. A home valuation, by judges of our own appointment here, is one thing; but a valuation founded on foreign invoices and the statements of foreign cost, and on foreign oaths, is another and quite a different thing. I am glad to find, therefore, that Mr. Clay's authority stands exactly where it should stand on such a question as this, in strict conformity with his knowledge, his experience, and his character.

Sir, in the same year (1842), the present Secretary of State, in a speech in the Senate, reasoned in the strongest language upon the necessity, the absolute necessity, of carrying the principle of specification in laying duties as far as possible. Standing here in his place, Mr. Buchanan said: —

"I am not only opposed to any uniform scale of *ad valorem*, but to any and all *ad valorem* duties whatever, except where, from the nature of the article imported, it is not possible to subject it to a specific duty. Our own severe experience has taught us a lesson on this subject which we ought not soon to forget. I cannot refrain from adverting to some of my reasons for this opinion.

"Our *ad valorem* system has produced great frauds upon the revenue, whilst it has driven the regular American merchant from the business of importing, and placed it almost exclusively in the hands of the agents of British manufacturers. The American importer produces his invoice to the collector, containing the actual price at which the imports

Digitized by Google

were purchased abroad, and he pays the fair and regular duty upon this invoice. Not so the British agent. The foreign manufacturer, in his invoice, reduces the price of the articles which he intends to import into our country to the lowest possible standard which he thinks will enable them to pass through the custom-house without being seized for fraud. And the business has been hitherto managed with so much ingenuity as generally to escape detection. The consequence is, that the British agent passes the goods of his employer through the custom-house, on the payment of a much lower duty than the fair American merchant is compelled to pay. In this manner he is undersold in the market by the foreigner, and thus is driven from the competition, whilst the public revenue is fraudulently reduced.

"Again, *ad valorem* duties deprive the American manufacturer of nearly all the benefits of incidental protection where it is most required. When the business of the country is depressed, as it is at present, and when the price of foreign articles sinks to far less than their cost, your duty sinks in the same proportion, and you are also deprived of revenue at the time when it is most needed.

"Our own experience, therefore, ought to have convinced us that, whenever it is possible, from the nature of the article, we ought to substitute specific for *ad valorem* duties. These continue to be the same upon the same articles, notwithstanding the constant fluctuations in prices. They afford a steady revenue to the country, and an equally steady incidental protection. When commodities are usually sold by weight or by measure, you may always subject them to a specific duty; and this ought always to be done.

"Let us, then, abandon the idea of a uniform horizontal scale of *ad valorem* duties; and whether the duties be high or low, let us return to the ancient practice of the government. Let us adopt wise discriminations, and, whenever this can be done, impose specific duties."

Now let me say, Sir, that it is proper for us, before we go on this new and untried system, to consider the opinions of wise and experienced men who have gone before us.

On the 28th of February, 1817, the House of Representatives, on motion of Mr. Ingham of Pennsylvania, resolved, "that the Secretary of the Treasury be directed to report to Congress, at the next session, such measures as may be necessary for the more effectual execution of the laws for the collection of the duties on imported goods, wares, and merchandise."

In pursuance of this resolution, Mr. Crawford, at that time Secretary of the Treasury addressed the following circular to the collectors of the customs throughout the country.

Digitized by Google

"[Circular.]

"*Treasury Department, November 11th*, 1817.

"Sir,—The House of Representatives having, by resolution, required the Secretary of the Treasury to report to Congress, at the next session, such measures as may be necessary for the more effectual execution of the laws for the collection of the duties on goods, wares, and merchandise, I have to request that you will inform me whether, in the discharge of your official duties, any important defects have been detected in the existing provisions.

"As it is only by experience that any system of revenue can be brought to approximate to a state of perfection, it is important to collect into a general mass the practical experience of the intelligent officers employed in superintending the immediate execution of the system.

"You will therefore have the goodness, in pointing out existing defects, to present to the department the provisions best calculated, in your opinion, to effect the object contemplated by the national legislature.

"An early attention to this subject is requested.

"I am, respectfully, &c.,

"Wm. H. Crawford."

In obedience to the resolution of the 28th of February, 1817, Mr. Crawford, at the next session of Congress, after having recommended various new provisions for the prevention of fraud, said:—

"Whatever may be the reliance which ought to be placed in the efficacy of the foregoing provisions, it is certainly prudent to diminish, as far as practicable, the list of articles paying *ad valorem* duties.

"The best examination which circumstances have permitted has resulted in the conviction that the following list of articles, now paying *ad valorem* duties, may be subjected to specific duties."

Then follows the list, amounting to seventy-one in all. Here, then, in answer to the call of the House, as to what measures ought to be adopted by Congress for the greater security of the public revenue, Mr. Crawford, at the end of a series of suggestions, amounting I think to twenty-two, adds, that, after all, the true course is, to go as far as possible on the line of specific duties.

Having received the foregoing intimation of Mr. Crawford's opinion, Mr. Ingham, on the 20th of April, 1818, moved another resolution as follows:—

"***Resolved***, That the Secretary of the Treasury be directed to report

Digitized by Google

to Congress, at their next session, what further improvement it may be practicable to make in the tariff of duties upon imported goods, wares, and merchandise, by charging specific duties upon articles which are now charged with duties *ad valorem*."

In order to gather materials for the execution of this resolution, Mr. Crawford addressed the following circular to the collectors of the customs.

"[CIRCULAR.]

"*Treasury Department, May 25th*, 1818.

"SIR,—As the revenue of the United States is now exclusively derived from imports and tonnage, and from the sale of the public lands, it is extremely important to render both systems as perfect as the nature of human institutions will permit.

"The certainty with which specific duties are collected gives them a decided advantage over duties laid upon the value of the article. It is probable that the most important change which can be made in the system will be the substitution of specific for *ad valorem* duties upon all articles susceptible of that change.

"Sensible of the importance of this change, the House of Representatives, at the close of the last session, adopted a resolution directing the Secretary of the Treasury to 'report to Congress, at their next session, what further improvement it may be practicable to make in the tariff of duties upon imported goods, wares, and merchandise, by charging specific duties upon articles which are now charged with duties *ad valorem*.'

"In complying with this resolution, I must avail myself of the experience which you have acquired in the discharge of your official duties.

"To place this department, as well as the House of Representatives, in a situation to judge of the propriety of making the change upon such articles as you may suppose to be susceptible of it, I will thank you to present them in the form of the statement annexed [not preserved] to this communication, showing the original cost of the article, the expense of freight, commissions, and insurance, the rate of *ad valorem* duty now paid, and its amount in the form of a specific duty, and the specific duty proposed to be laid upon it.

"I am, respectfully, &c.,

"WM. H. CRAWFORD.

"P. S. Is it practicable to subject *cloths* of wool, cotton, or flax, &c., to specific duties, by combining the number of threads in a given extent with the weight of the cloth? It is asserted by some of the English manufacturers to be entirely practicable by the aid of magnifying-glasses constructed for that object."

Digitized by Google

At the following session of Congress, Mr. Crawford communicated the results of his inquiry, in the following letter to the Speaker of the House of Representatives.

"*Treasury Department, February 8th*, 1819.

"Sir, — In obedience to a resolution of the House of Representatives of the 20th of April, 1818, directing the Secretary of the Treasury 'to report to Congress, at its next session, what further improvement it may be practicable to make in the tariff of duties upon imported goods, wares, and merchandise, by charging specific duties upon articles which are now charged with duties *ad valorem*,' I have the honor to submit the enclosed list of articles, exhibiting the original cost, the freight, insurance, and commissions, where it has been practicable; the present *ad valorem* duty reduced to a specific form; and the specific duty which it is conceived may be imposed upon them, respectively, consistent with the public interest.

"It is probable that this list may be considerably extended, should the subject receive no final disposition during the present session.

"I have the honor to be your most obedient servant,

"Wm. H. Crawford.

"To the Honorable the Speaker of the House of Representatives."

The articles in this list amount to one hundred and fifty-five in number.*

Now, Sir, what is the great fact that makes *ad valorem* duties unsafe as a general principle of finance? I must confess my utter consternation when I heard, the other day, the honorable chairman of the Committee of Finance† say, that he did not believe that a case of fraudulent under-valuation had ever been made out! Why, it is the notoriety of a thousand such cases, occurring every year in this government, and in all governments where the system of *ad valorem* duties in any degree prevails, and the value is ascertained upon the invoices or proof from abroad; it is the notoriety of a thousand such cases of fraud, that has led to the adoption of this general rule, and raised it even into a principle, as I have shown. My friend from Maine‡ must have satisfied the honorable chairman and the Senate, as well as every body else, of the number and the notoriety of the cases of fraudulent under-valuation, because he enumerated instances, and hundreds of instances, in which goods have

* State Papers, Finance, Vol. III. pp. 415, 416.
† Mr. Lewis. ‡ Mr. Evans.

Digitized by Google

been seized and forfeited for under-valuation. The cases are numberless; and, Sir, since this subject has come up, and since persons out doors have heard the declaration of the honorable chairman, my desk has been laboring under the weight of facts communicated from various portions of the commercial community. I will state only a few, out of many. Here is one, and here is the proof:—

"A merchant orders goods to be shipped from France and entered at New Orleans for the Western trade, with the understanding that he is to have them at the foreign cost, with the duties and charges added.

A shipment was made and forwarded to the purchaser, amounting to . . . . . 6,829.93 francs.

At the same time the invoice forwarded with the goods to New Orleans was, ... 5,258.00 francs.

Difference, ... 1,571.93 francs.

Or, $316.94 out of $1,300.94.

"The goods were valued, therefore, in the entry, at $316.94 less than they were to the purchaser, and the purchaser was actually charged for the duty on this $316.94 as paid to the government, amounting to $95.10. Both the government and the purchaser were, therefore, cheated out of that sum.

"This transaction occurred in the spring of 1846, and I send you a copy of the correspondence in which these facts are stated, and not denied; but the French house attempts a roundabout justification for putting the foreign cost to the purchasers at a greater amount than the entry invoice.

"J. D."

This transaction occurred this very year. And here, Sir, is another, communicated by a most highly respectable merchant of my acquaintance.

"*Boston, July 17th*, 1846.

"Dear Sir,—I am informed that a respectable house in this city received an invoice of European goods from a foreign house, the amount of which was about $2,000, and that, after entering the goods at the custom-house by the invoices, they received another invoice valuing the same goods at about $8,000, with a letter stating that the first invoice was to levy duties by, and the second to sell by.

"The consignee here, who is also an importer, not being willing to be a party to the fraud, deposited both invoices at the custom-house, where they were yesterday.

Digitized by Google

"I have no doubt of the authority from which I received this information, but I do not wish to be quoted for it.

"I have thought you might be pleased to know this fact, as the fraud is so great, and the perpetrator beyond the reach of any penal statutes of this country.

"Your most obedient servant,

"Hon. DANIEL WEBSTER, *Washington.*

"P. S. I hear that Mr. Lamson is the consignee."

Sir, one case more. A highly respectable firm in Boston, Messrs. George H. Gray & Co., have for many years been dealers in hardware, and in the habit of making importations of certain articles from the North of Europe. In these articles they found themselves constantly undersold by the dealers in New York. They could not understand the reason of this for a long time, but last spring the secret came to light. They had ordered a small amount of hardware to be sent to them, and in due time the goods came, and two invoices came with them. In one invoice the cost was stated at nine hundred and fifty-eight thalers, in the other at one thousand four hundred and two. And the letter accompanying these invoices says: "You find herewith duplicate invoices of the greatest part of your order, &c. The original I send by Havre packet. *You also find herewith an invoice made up in the manner like* [that which] the most *importers of your country require, perhaps to save some duty.*"

Now, Sir, these original invoices, the false and the true, and the original letter which I have read, are now in my hand, and any gentleman who feels disposed may look at them. Of course, Messrs. Gray & Co. carried both invoices to the custom-house, because they are honorable merchants, and the duties were assessed on the higher invoice. And these gentlemen were no longer at a loss to account for the low price at which this description of merchandise had been selling in the city of New York.

But now, Sir, take, not a single case, but the results of long experience. I am about to read a letter, not addressed to me, but placed in my hands, from a gentleman well known, I presume, to both the Senators of New York, and to other members. This letter, I think, will startle the honorable chairman. It must open to his mind quite a new view of things.

Digitized by Google

"*Troy, July 14th*, 1846.

"LE GRAND CANNON, ESQ.:

"Sir, — Agreeably to your wish, I avail myself of this opportunity to give you the benefit of my experience in mercantile and manufacturing business, hoping it may tend to an improvement of the bill, now pending in the Senate, for the collection of duties. I hope members of Congress will have the same views of the probable results which I anticipate; which are, that the system of *ad valorem* duties does give the foreign importer and manufacturer a very undue advantage over the American importer. This will be apparent from my own experience, which I give you annexed.

"My brother and myself were brought up in the town of Manchester, and are well acquainted with the manufacturers and manufacturing. At the age of twenty years it appeared very evident to me that we could finish goods and import goods into New York about ten per cent. lower than the American merchant; and, with this conviction, I agreed to come out to New York and dispose of the goods, and leave my brother to finish and forward the goods. The result was equal to our expectations. We imported our goods ten per cent. cheaper than our competitors, and by the *ad valorem* duties we paid nearly five per cent. less duties; so that, in twenty-two years, we made nearly a million dollars, whilst nearly all the American merchants failed.

"Now, I reason, what has been will be; and should the present tariff bill pass, it will give the foreign manufacturer a decided advantage, and tend to reduce the rate of duties lower than is anticipated. And I cannot avoid expressing my decided opinion in favor of specific duties, as then the foreign manufacturer would pay the same duties as the American importer.

"BENJ. MARSHALL."

Can any man gainsay the truth of this? Is there a merchant, foreign or American, in the United States, who will express any contrariety of opinion? Is there a man, high or low, who denies it? I know of none; I have heard of none. Sir, it has been the experience of this government, always, that the *ad valorem* system is open to innumerable frauds. What is the case with England? In her notions favorable to free trade, has she rushed madly into a scheme of *ad valorem* duties? Sir, a system of *ad valorem* duties is not *free* trade, but *fraudulent* trade. Has England countenanced this? Not at all; on the contrary, on every occasion of a revision of the tariff of England, a constant effort has been made, and progress attained in

Digitized by Google

every case, to augment the number of specific duties, and reduce the number of *ad valorem* duties. A gentleman in the other house* has taken pains, which I have also done, though I believe not quite so thoroughly as he has, to go through the items of the British tariff, and see what proportion of duties in that tariff are *ad valorem* and what are specific. Now, Sir, the result of that examination shows, that at this day, in this British tariff, out of seven hundred and fourteen articles, six hundred and eight are subject to specific duties. Every duty that from its nature could be made specific is made specific. Nothing is placed in the list of *ad valorem* articles but such as seem to be incapable of assessment in any other form.

Well, Sir, how do we stand then? We have the experience of our own government; we have the judgment of those most distinguished in the administration of our affairs; we have the production of proof, on this most important point, in hundreds and hundreds of instances, of the danger of the *ad valorem* mode of assessing duties. What is produced in its favor? Every importer of the United States, without exception, is against it. Sir, the administration has not a mercantile friend from here to Penobscot, so far as appears, that will come forward and give his opinion in favor of this system. I undertake to say there is not one. There may be members of the "little Congress," to which the honorable member from Connecticut† referred some days ago, some subordinate officers about the custom-house, influenced by I know not what considerations, who may be found ready to sustain such a system. That I do not deny. But I say that no importing merchant can be found between Penobscot and Richmond, who will give his opinion in favor of it, if he is an honest man, and one who gets his living by importation himself. Well, then, how are we to decide? Against our own experience? Against these thousands of substantiated facts? Against these cases now blushing with recent fraud? Against the example, not only of the English government, but against that of all the Continental governments? for the Zoll Verein carries its specific duties much further even than England. Against all this what have we? Why, we have the recommendation of the President of the United States and the Secre-

* Mr. Seaman. † Mr Niles.

Digitized by Google

tary of the Treasury; highly respectable persons; respectable in private life, respectable, and I may say eminent, in some walks of public life; but, I must add, neither of them trained in the knowledge of commerce, neither of them having had habits of intercourse with practical men of the cities, or men of mercantile business. And yet here, in the first year of their administration, fresh to the duties thrown upon them, they come out with a recommendation of a vast change; they propose a new system, adverse to all our own experience, hostile to every thing that we have ever learned, different from the experience of every other country on the face of the earth, and which stands solely on the responsibility of their own individual opinions! I do not think that this is a fair balance of authority; and since nobody here will uphold it, since nobody here will defend it, it is fair enough for me to say, with entire respect to the head of the government and the Department of the Treasury, that the preponderance of authority is quite overwhelming the other way.

But now, Mr. President, I come to a part of this act, to which I am exceedingly desirous to call the attention, the serious attention, of gentlemen on both sides of the Senate. The eighth and ninth sections of this bill appear to me to be so extraordinary and so objectionable, that I cannot persuade myself that any gentleman, who will take the trouble of reading and studying them, will hazard the revenue of the country upon such provisions. In the first place, allow me to read the ninth section of the bill. Let me repeat, that the danger in the practical operation of the *ad valorem* system arises from the great probability of under-valuation, fraudulent or otherwise, in the foreign market. The thing to be guarded against, therefore, wherever the *ad valorem* system of duty prevails, is fraudulent or accidental under-valuation; and therefore the law now in operation provides specific and adequate penalties in such cases. If there be any fraudulent under-valuation under the existing law, and it be detected, there is a penalty, there is redress. But if I understand aright the legal effect of these provisions, that effect will be (and to that I wish to call the attention of the legal minds of the Senate) to remove all penalties whatsoever from fraudulent under-valuation; because, perhaps, of the opinion of the chairman, that no such case need be provided for, as he

Digitized by Google

thinks none such ever yet happened! There will not be, as it seems to me, the smallest penalty, or the least check to any amount of under-valuation that any body may choose to make. Here is the ninth section of the bill:—

"Sec. 9. *And be it further enacted*, That if, upon the examination of any parcel, package, or quantity of goods, of which entry has been made, the appraisers of the United States shall be of opinion that the same was undervalued by the owner, importer, consignee, or agent, with the intention of defrauding the revenue of the United States, it shall be lawful for the collector, within whose district the same may be entered, the sanction of the Secretary of the Treasury being first obtained, if, in his opinion, the same shall be advisable, to take such goods for the use of the United States. And such collector shall cause such goods to be sold at public auction, within twenty days from the time of taking the same, in the manner prescribed by law for the sale of unclaimed goods; and the proceeds of such sale shall be placed forthwith in the treasury of the United States; and such collector is hereby authorized to pay out of the accruing revenue, to the owner, importer, consignee, or agent of the goods so taken, the value thereof as declared in the entry, and five *per centum* upon such amount in addition thereto; and the said collector shall render to the Secretary of the Treasury, with his accounts of the customs, a statement showing the amount of moneys so paid, the amount of duties chargeable on the goods so taken, and the amount of proceeds paid into the treasury; and this section shall be in force until the first of July, eighteen hundred and forty-eight, unless otherwise directed by Congress."

Sir, there never was such a provision as that on the face of the earth! I pray gentlemen to look to it. Here is a man who comes with a *fraudulent invoice;* it is proved to be fraudulent; the present law punishes him by forfeiting the goods; but what does this law say? It says that the collector may take the goods, sell them, put the proceeds into the treasury, but shall pay him the cost, and five per cent. over! So that the *fraudulent* importer, if found out, shall yet be made safe against loss! He may yet sell his goods to the United States for cost, and five per cent. profit. Now, I am guilty of no misrepresentation. Here are the written words. It is exactly what I state. He comes with his goods, and the collector charges him with a fraudulent invoice. "Very well," he says, "if you say so, take the goods and give me what I allege they cost, with five per cent.

Digitized by Google

profit. Make the most of it!" Whether he made a good importation or a bad one, the law very kindly provides him with a way to get rid of his goods. There is not a particle of penalty, not a particle of inconvenience to be suffered by him. It is all considerate kindness for one proved guilty of a fraud! On general principles, this section would seem to supersede and abrogate all previously existing provisions, because the enactment is made in relation to the same subject-matter, and covers the cases covered by existing laws, and is nowhere said to be additional, or cumulative; but, on the contrary, the twelfth section declares that all previous laws repugnant to the provisions of this act shall be repealed.

But if this be regarded as a new provision, not intended to repeal existing laws, but designed merely to give a new power to the collector or the Secretary, then it is still more objectionable, because, if viewed in that light, it gives a dispensing power, or an unlimited power of favoritism. It enables the Secretary to excuse, and even to reward, one fraudulent importer, while others, not more fraudulent, forfeit their goods. It seems to be thought that the Secretary may well show favor and kindness in particular cases, though deliberate fraud has been actually perpetrated. This is exactly in the spirit of the serving-man's address to Mr. Justice Shallow:—

"I grant your worship that he is a knave, Sir; but yet, God forbid, Sir, but a knave should have some countenance at his friend's request. An honest man, Sir, is able to speak for himself, when a knave is not. I have served your worship, truly, Sir, this eight years, and if I cannot once or twice in a quarter bear out a knave against an honest man, I have but a very little credit with your worship. The knave is mine honest friend, Sir; therefore, I beseech your worship, let him be countenanced."

Mr. Cameron here rose, and was understood to say, that he really could hardly suppose that such a blunder had been committed in passing the bill. He wished to hear the section again.

I will read it again, "with discretion and due emphasis." Well, now, (continued Mr. W., after reading the section,) the fraudulent importer may himself purchase the goods at auction. He may perhaps buy them at fifty per cent., and make the government pay the full amount! And besides, he thus evades the

Digitized by Google

duty altogether. He gets his goods in free, and has a certainty of being paid all that he rates them at, and five per cent. besides. Now, Sir, our predecessors did not leave the matter in that state. The provision in the seventeenth section of the act of 1842, and the nineteenth section of the same act, are the provisions under existing laws for prevention of under-valuation, in addition to the general penalty of forfeiture, when invoiced fraudulently.

The eighth section of the bill is still more remarkable. I do not mean to say that there is any purpose in the Treasury Department, or any officer of the government, to give facilities to fraudulent importations. They are not capable of that. Yet I say that this eighth section is open to much fraudulent abuse. See what it is: —

"Sec. 8. *And be it further enacted*, That it shall be lawful for the owner, consignee, or agent of imports which have been actually purchased, on entry of the same, to make such addition in the entry to the cost or value given in the invoice, as in his opinion may raise the same to the true market value of such imports in the principal markets of the country whence the importation shall have been made, or in which the goods imported shall have been originally manufactured or produced, as the case may be; and to add thereto all costs and charges which, under existing laws, would form part of the true value at the port where the same may be entered, upon which the duties should be assessed. And it shall be the duty of the collector within whose district the same may be imported or entered, to cause the dutiable value of such imports to be appraised, estimated, and ascertained in accordance with the provisions of existing laws; and if the appraised value thereof shall exceed by ten *per centum* or more the value so declared on the entry, then, in addition to the duties imposed by law on the same, there shall be levied, collected, and paid a duty of twenty *per centum ad valorem* on such appraised value: *Provided*, nevertheless, that under no circumstances shall the duty be assessed upon an amount less than the invoice value, any law of Congress to the contrary notwithstanding."

By statute of long standing, fraudulent invoices for under-valuation are declared to be grounds of forfeiture of the goods, and the seventeenth section of the law of 1842 goes further, and imposes a personal penalty. Its provision is this: —

"*Provided also*, That in all cases when the actual value to be appraised, estimated, and ascertained, as hereinbefore stated, of any goods, wares, and merchandise imported into the United States, and

Digitized by Google

subject to any *ad valorem* duty, or whereon the duty is regulated by, or directed to be imposed or levied on, the value of the square yard, or other parcel or quantity thereof, shall exceed by ten *per centum*, or more, the invoice value, then, in addition to the duty imposed by law on the same, there shall be levied and collected on the same goods, wares, and merchandise fifty *per centum* of the duty imposed on the same, when fairly invoiced."

Now, the object of the eighth section in this bill appears to be to shield the honest importer from the penalties of under-valuation, where he has actually purchased the goods at a price below the market value; and it permits him, in his entry, to add so much to the value given in the invoice, as, in his opinion, will raise the goods to the market value in the country from which they were imported. Yet see how open to abuse. If the value put upon the goods by the appraisers shall exceed by ten per cent. the value so declared by the importer in the entry, then the goods shall be liable to an additional duty of twenty per cent. *ad valorem*. This is a provision for an entry of goods at a valuation which differs from the invoice. It prescribes no *oath* for the importer to take in regard to the addition which he proposes to make; and in all the revenue laws I can find no oath which a collector is authorized to administer, and which is applicable to such a case. Here is opened a door for fraud, if a purpose to commit fraud exists. An importer may require his foreign correspondents to send him half a dozen invoices of the same goods, graduated all along down to seventy-five per cent. below their value; and on arrival he will use that invoice which shall be ten, twenty, or thirty per cent., or more, under the true value, according to circumstances. If he find the appraisers particularly sharp as to such articles as his, he will add something to the invoice; and, according to this section, if he add enough to bring the goods up within ten per cent. of the value as fixed by the appraisers, he escapes all punishment. Suppose the appraisers find that the goods are undervalued only nine per cent., then they are to be entered at their value, and he escapes all risk. At the same time, if the appraisers let the invoice pass at his own valuation, he saves the duty on nine per cent. of the cost of the goods. Within the limit, therefore, of ten per cent. he can play a fraudulent part with impunity.

Under existing laws he must swear that the invoice produced

Digitized by Google

is that under which the goods were purchased, that it is the true invoice, and that he has no other. But even now a fraudulent importer has great facilities. He may direct his correspondent abroad to send out such an invoice of such goods, at such a price. Well, with that he goes to the custom-house. There are no sharper eyes in the world than those of the men who bring in goods with fraudulent intent. A man intending to defraud the custom-house, gets an invoice of goods; every body says, and the appraisers say, "Well, this is enormous; these goods could not have cost so little as that!" And the collector meditates a seizure. The moment that this is apprehended, the importer comes again, and says, "O, I know how it must have been! It is all a mistake! Here is the true invoice. My correspondent in Paris made a mistake; he corrected it the very next week, and here is the true invoice." Such cases have occurred; and need I say, that, if the goods had not been arrested in their progress, this second invoice never would have appeared. A man may send a false invoice to-day to his consignee in New York, and the New York merchant may go to the custom-house and swear that that is a true invoice, and that he has received no other; and he may enter his goods and get a permit; but before the sale by auction another invoice arrives; and, as happened in the case in Boston to which I alluded, there is one invoice to enter by, and another to sell by. And the importer has time to come in with his subsequent invoice, if threatened with seizure, to relieve himself of all inconveniences from having made, and being shown to have made, a fraudulent undervaluation.

I leave this part of the case by presenting, in behalf and in the name of the whole American importing community, foreign and domestic, of any reputation at all, in behalf of every American importing merchant, in behalf of that whole body of respectable foreign merchants, French, German, and English, who come and reside here, and import goods from their respective countries and elsewhere, under the protection of our laws; in their behalf, and in behalf of every man of them, so far as I have heard, I present their opinions against the extension of the *ad valorem* system. And I would admonish gentlemen, most seriously, to consider whether the objections which I have now urged are not respectable; whether the opinions I have quoted are not respect-

Digitized by Google

able; and whether, after all, they are willing, unnecessarily, suddenly, with no other recommendation than that to which I have alluded, to take a step in the dark, and to place the whole income and means of supplying the treasury upon the untried system of *ad valorem* duties.

And now, Sir, with the leave of the Senate, I shall proceed to consider the effects of this bill upon some of those interests which have been regarded as protected interests.

I shall not argue at length the question, whether the government has committed itself to maintain interests that have grown up under laws such as have been passed for thirty years back. I will not argue the question, whether, looking to the policy indicated by the laws of 1789, 1817, 1824, 1828, 1832, and 1842, there has been ground for the industrious and enterprising people of the United States, engaged in home pursuits, to expect government protection for internal industry. The question is, Do these laws, or do they not, from 1789 till the present time, constantly show and maintain a purpose, a policy, which might naturally induce men to invest property in manufactures, and to commit themselves to those pursuits in life? Without lengthened argument, I shall take this for granted.

But, Sir, before I proceed further with this part of the case, I will take notice of what appears, latterly, to be an attempt, by the republication of opinions and expressions, arguments and speeches of mine, at an earlier and later period of life, to found against me a charge of inconsistency on this subject of the protective policy of the country. Mr. President, if it be an inconsistency to hold an opinion upon a subject at one time and in one state of circumstances, and to hold a different opinion upon the same subject at another time and in a different state of circumstances, I admit the charge. Nay, Sir, I will go further; and in regard to questions which, from their nature, do not depend upon circumstances for their true and just solution, I mean constitutional questions, if it be an inconsistency to hold an opinion to-day, even upon such a question, and on that same question to hold a different opinion a quarter of a century afterwards, upon a more comprehensive view of the whole subject, with a more thorough investigation into the original purposes and objects of that Constitution, and especially

Digitized by Google

after a more thorough exposition of those objects and purposes by those who framed it, and have been trusted to administer it, I should not shrink even from that imputation. I hope I know more of the Constitution of my country than I did when I was twenty years old. I hope I have contemplated its great objects more broadly. I hope I have read with deeper interest the sentiments of the great men who framed it. I hope I have studied with more care the condition of the country when the convention assembled to form it. And yet I do not know that I have much to retract or to change on these points.

But, Sir, I am of the opinion of a very eminent person, who had occasion, not long since, to speak of this topic in another place. Inconsistencies of opinion, arising from changes of circumstances, are often justifiable. But there is one sort of inconsistency which is culpable. It is the inconsistency between a man's conviction and his vote; between his conscience and his conduct. No man shall ever charge me with an inconsistency like that. And now, Sir, allow me to say, that I am quite indifferent, or rather thankful, to those conductors of the public press who think they cannot do better than now and then to spread my poor opinions before the public.

I have said many times, and it is true, that, up to the year 1824, the people of that part of the country to which I belong, being addicted to commerce, having been successful in commerce, their capital being very much engaged in commerce, were averse to entering upon a system of manufacturing operations. Every member in Congress from the State of Massachusetts, with the exception, I think, of one, voted against the act of 1824. But what were we to do? Were we not bound, after 1817 and 1824, to consider that the policy of the country was settled, had become settled, as a policy, to protect the domestic industry of the country by solemn laws? The leading speech* which ushered in the act of 1824 was called a speech for the "American System." The bill was carried principally by the Middle States. Pennsylvania and New York would have it so; and what were we to do? Were we to stand aloof from the occupations which others were pursuing around us? Were we to pick clean teeth on a constitutional doubt which a majority

* That of Mr. Clay.

Digitized by Google

in the councils of the nation had overruled? No, Sir; we had no option. All that was left us was to fall in with the settled policy of the country; because, if any thing can ever settle the policy of the country, or if any thing can ever settle the practical construction of the Constitution of the country, it must be these repeated decisions of Congress, and enactments of successive laws conformable to these decisions. New England, then, did fall in. She went into manufacturing operations, not from original choice, but from the necessity of the circumstances in which the legislation of the country had placed her. And, for one, I resolved then, and have acted upon the resolution ever since, that, having compelled the Eastern States to go into these pursuits for a livelihood, the country was bound to fulfil the just expectations which it had inspired.

Now, before I go into a consideration of the various articles intended to be protected, and the effect of the law upon the interests connected with these manufactures, I wish to make a remark, which is little more than a repetition, in general terms, of what was said by the honorable member from Connecticut the other day. It is the strangest anomaly that ever was seen in any act of legislation, that there is a uniform tendency in this measure to tax the raw material higher than the manufactured article. It allows bringing in cordage, for instance, for the use of the shipping interest of the United States, at a less rate of duty than you can bring in the raw material. Of course, it is prohibitory of internal labor. It is prohibitory of the internal manufacture; and not in that case only, but in a great many others, as I shall show you.

There seems to be a sedulous purpose of hostility to the manufacturing interests. I speak of the tenor and tendency, and the general spirit of this bill. It does prefer, by its enactments, and in its consequences, foreign labor to domestic labor. It does encourage the labor of foreign artisans over and above, and in preference to, the labor of our own artisans here in the United States. I aver it, and I am going to prove it. Now, if that is made out, is there a man in this chamber who will vote for this bill? And yet we are told from other quarters, that this is a bill of peace, that it will settle a vexed question. Depend upon it, it will settle nothing. It is calculated to raise a degree, I had almost said of resentment, at all events of surprise and in-

Digitized by Google

dignation, not in one man's breast, but in the breasts of a million of people, now earning their bread, as they think, under laws, and assurances that these laws shall be continued, which enable them to import the raw material and work upon it, and bring their labor into market, as advantageously as the labor of the foreign mechanic. Call you that a bill of peace which disturbs all these expectations? It is not peace; it is any thing but peace.

Sir, there is an article, the growth of which is very interesting to the Western States, being well suited to the fertility of their soil. It is hemp. The manufacture of that article into cordage is essential to the navigating interests of the United States. This is one of the cases which I have mentioned, and with reference to which I wish to read several letters from highly respectable gentlemen.

The first letter is from Mr. Isaac P. Davis, of Boston, who has been a rope-maker for forty years, and whose opinion, on this and other subjects, is entitled to respect.

"*Boston, July* 16.

"My dear Sir,—I send you a paper which contains an article on hemp and cordage, by a writer who appears to understand the subject.

"I inclose a statement of the average cost of hemp and cordage in Russia for the last five years; also, the freight to the United States; and the cost of freight for a ton of hemp from Missouri, Kentucky, and Indiana. You will see the advantages Russia cordage will have in our market over our own manufacture.

"Foreign cordage also has the advantage of drawback on shipment to another market. We consume six thousand barrels of tar in the manufacture. Yours truly,

"I. P. Davis."

The following is the statement alluded to above:—

Cost of a ton of hemp in Russia, including charges, . . .		$140
Freight per ton, ...		12
		$152
Cost of a ton of cordage, ...	$150	
Freight per ton, ...	8	
		$158

The above are the average prices for five years.

Freight of a ton of hemp from Missouri, Kentucky, or Indiana to Boston, ...	$21

Digitized by Google

I add two other important letters, from very respectable persons in the same city.

"*Boston, July* 15, 1846.

"SIR, — We wish to call your particular attention to the interest of the cordage manufacture, in settling the tariff question now before the Senate. The bill, as passed by the House, is destructive to the interest of the American, and grants a bounty to the foreign manufacturer of twenty or twenty-five per cent., viz. : —

The difference of duty more on hemp than cordage, .	5 per cent.
The difference of foreign shipping charges, .	10 "
The difference of freight more, being charged on hemp, on account of its bulk, than cordage,	10 "
Making	25 per cent.

"The foreign manufacturer has another advantage over the domestic, in being enabled to deposit in warehouse, and supply the home market when the price will answer, to secure the export demand, by selling at that price. We wish to have justice at the hands of the government, if not protection, and think a specific duty should be laid on cordage that should be equal to at least twenty per cent. over the duty on hemp, besides the extra expense of importing hemp over cordage.

"And we further think it decidedly for the interest of the country, and of the growers of hemp in this country.

"The foreigner will supply cordage under the House bill which will prevent the produce of hemp finding a market here, as the expense of getting American hemp from the place of raising is now over fifty per cent. of the first cost, while cordage can be brought from Russia, exclusive of duty, at from five to seven per cent.

"We think the domestic manufacturer should be allowed a drawback on cordage made from foreign hemp (which has paid a duty) when exported; or, if this cannot be done, the drawback should not be allowed to the importer of foreign cordage on exportation.

"Soliciting your attention to the foregoing, we are, very respectfully, your obedient servants.

"SEWALL & DAY.

"HON. DANIEL WEBSTER."

'*Boston, July* 17, 1846.

"DEAR SIR, — It appears to me so extraordinary that so many of our legislators at Washington cannot, or will not, see the injurious effects the proposed tariff will have throughout our country, if adopted, that I cannot refrain from expressing to you my opinion in regard to it, and particularly to the western sections of the country, for instance, where so much

Digitized by Google

hemp is produced. If this *ad valorem* tariff passes, it will bring Russia again in competition with them; whereas, at the present time, but very little Russian hemp is wanted, and our rope-makers are now using the American hemp, almost entirely, for tarred cordage. If the tariff should be adopted by Congress, we shall be able to import Russian tarred cordage cheaper than we can import the same weight in hemp, inasmuch as there is an export duty on hemp in Russia, and many expenses in preparing it to pass inspection if imported, while on cordage there is no export duty of any consequence, a mere trifle, and the yarns are spun in the interior in winter at a cheap rate, of mixed qualities of hemp, not inspected, sent to market on bobbins, from which the rope-makers take the yarns and tar and twist them into ropes of various sizes for exportation, and cheaper than they can ship the same weight in hemp. Thus you see that this tariff will not only affect the Western hemp-growers very injuriously, but it will in a great degree destroy the manufacture of hemp in this country.

"There are many other articles I could mention that would be a general injury to the country by an *ad valorem* tariff, but you, no doubt, are aware of it, and therefore I desist from further observations, excepting that it is astonishing and extraordinary that the government at Washington will not profit by the experience and experiments of the governments of Europe, who have tried *ad valorem* tariffs, and find they do not answer at all, and have resorted to specific tariffs on almost every thing of importance.

"It is now so late in the season, and your duties have been so arduous, that I presume you will not call the attention of Congress to the injurious effects these *reciprocal* treaties have on the commerce of this country.

"I remain, dear Sir, your obedient servant,

"JAMES HARRIS.

'HON. DANIEL WEBSTER."

What answer is to be made to all this? Is it the result of intention, or of culpable ignorance? Are those who framed this bill determined, of purpose, to break down the manufactures of the country, or are they only indifferent and utterly reckless in all that relates to them?

There is, Sir, another article, very important to the shipping interest, as well as the manufacturing interest, and grown into importance lately, the fate of which is still more striking. Formerly it was not of much consequence, but lately it has become so. It is the article of linseed and of linseed oil. Now, this is a

Digitized by Google

case of very great interest. So important is it, that I shall read to the Senate letters from mercantile men, who say that, if this bill passes, one third of all the trade and shipping between the United States and Calcutta will be cut off and destroyed. Let us see how that stands. Years ago, and when I first remember to have been conversant with commercial men, and was living in the midst of a navigating people, there was a considerable export of the article of flaxseed from the United States to Ireland and England. It is well known that Ireland, a great seat of the linen manufacturers, a country that raises and manufactures so much flax, does not raise its own flaxseed; and the reason of that is, I suppose, that the flax must be pulled before the seed has ripened; if not, the fibre becomes so hard that it does not answer the purpose of fine manufacture, and can be used only for the coarser fabrics. In our Middle and Northern States flax is raised for both purposes. It is suffered to ripen, and the seed is saved and exported to Ireland, or was formerly, whilst the fibre is manufactured into those coarse goods which answer for household purposes, and the flax was spun by our mothers and sisters, and their assistants, in times past. But now this is greatly changed. Linseed oil has become an article of great importance and vastly extensive use. It is manufactured in this country chiefly from linseed imported from abroad, and, as I suppose, mainly in that immature state in which it would not vegetate. Here it is used for the manufacture of linseed oil, and has become a very important matter, not only to the manufacturers of the article here, who have invested large sums of money in the erection of mills, but also to the navigating interest, as touching very seriously the employment of all those vessels of the United States which carry on the trade between us and India. In the first place, let me give you a statement in respect to the establishments for the manufacture of this article.

At the last census, there were eight hundred and forty linseed-oil mills in the United States, and they now number from one thousand to twelve hundred, moved by water or steam.

They consume from twenty bushels of seed daily up to eight hundred, according to their capacity. Taking the daily consumption at only ten bushels each, they will consume in a year three millions of bushels. The whole annual export of flaxseed does not exceed thirty thousand bushels (that is, the

Digitized by Google

matured seed to Ireland), which is only one bushel out of every *hundred* of the crop, the remaining ninety-nine bushels being consumed in making oil.

Present duty on linseed oil, per gallon, ...	25 cents.
Proposed duty, 20 per cent. *ad valorem*, or only, per gallon,	7 "
Being a reduction of	18 cents.

Present import of linseed oil, 200,000 gallons, duty 25 cents,	$ 50.000
Same import, at proposed rate of 7 cents, ...	14,000
Loss in duty, ...	$ 36,000

It will require an increased import of five hundred thousand gallons of oil to get the same amount of duty that we now do, if the duty is reduced as proposed; and this can only be done by destroying our own mills, and stopping the growth of seed in this country. The imports of linseed are about four hundred thousand bushels, paying a freight of one hundred and twenty thousand dollars. The cake is shipped to England, and pays a freight of forty thousand dollars per annum to our packet-ships.

A gentleman engaged in this manufacture writes to me thus: —

" From our own mill we send forty thousand barrels of cake to London yearly.

" England imports three and a half millions of bushels of *linseed entirely free of duty*. She imposes a prohibitory duty on linseed oil, and does not import a single gallon. She has capital, machinery, coals, and wages much cheaper than ourselves, and her millers get double the price for their oil-cake that ours do.

" We consume in our mill nine hundred tons of coals yearly.

" No monopoly is asked or expected; but our opinion is, that a duty of twelve and a half or fifteen cents a gallon on oil, in lieu of the present rate of twenty-five cents, with seed free or at five cents duty, will be for the best interests of our farmers, millers, and consumers, and give more revenue than the rates proposed by Mr. McKay in his new bill."

See, then, with what care this interest is protected by the bill on our table! I may not stop here. I have alluded to the effect of this measure upon the commerce and the freight of the country. Here is a letter from one of the most respectable merchants in Boston, formerly a sea-captain.

Digitized by Google

"*Boston, July* 13, 1846.

"DEAR SIR, — This will introduce to you Mr. N. Sturtevant, a respectable merchant of this place, largely interested in the manufacture of oil from linseed.

"If the tariff passes in the shape it came from the House of Representatives, it will destroy more than one third of our Calcutta trade.

"With great respect, your obedient servant,

"BENJAMIN RICH.

"HON. DANIEL WEBSTER."

And here is another letter, from a mercantile friend of mine in the same city.

"*Boston, July* 13, 1846.

"SIR, — I beg leave to introduce to your acquaintance the bearer of the present, Mr. Noah Sturtevant, one of our largest linseed-oil manufacturers, and who proceeds to Washington upon business relating to the new tariff as affecting the articles of linseed and linseed oil.

"A large proportion of the tonnage now employed in the Calcutta trade with this country is occupied in carrying linseed. With the proposed change in the tariff upon this article, this trade would be broken up.

"Referring to Mr. Sturtevant for further particulars, I remain, Sir, with much respect, your very obedient servant.

"ROBERT G. SHAW.

"HON. DANIEL WEBSTER, *in Washington.*"

But, Mr. President, there is a curious specimen of legislative history connected with the duty laid on linseed by this bill. In the twenty per cent. schedule is "flaxseed"; in the ten per cent. schedule is "hempseed, linseed, rapeseed." Originally it stood "flaxseed, linseed, hempseed, rapeseed," in the ten per cent. schedule. Opposition was made to this in the other house, on the ground that flaxseed was not sufficiently protected. *Flaxseed* was therefore carried into the twenty per cent. schedule, leaving its synonyme *linseed* behind in the lower schedule!

I proceed, Sir, to another article in regard to which the advantage is given against the American manufacturer. It is copper. I presented this subject to the consideration of the Senate the other day, and will do no more now than read the statement of persons most concerned in it in the United States, as embodied in their petition to the Senate.

"The undersigned, manufacturers of copper, and others interested in

Digitized by Google

the trade to countries whence this article is obtained, having seen that a bill is now before Congress imposing a duty of five per cent. on raw copper, whilst copper sheathing is to be admitted free, beg leave to submit to your consideration a few remarks upon the effect and impolicy of the proposed measure.

"In order to present the subject in a clear and intelligible manner, we shall endeavor to show the origin of the copper used in the United States, the nature of the trade by which the raw material is obtained, the effect the proposed duty will have upon this trade, and its disastrous consequences upon the manufacturing interests of the country."

Do you see, Sir, you tax the raw material, and let England send in her manufactured article free? This presses on every interest. If our people cannot manufacture raw copper, they cannot import it. We lose the freight of it in that degree, and of course the employment of our ships. This, accordingly, affects the manufacturer of copper here, affects the exports, and affects directly the employment of our ships. For what? Sir, for what purpose? The petition goes on:—

'The consumption of copper in the United States is about thirteen millions of pounds annually. It is obtained,—

	Pounds.
From Chili, in pigs,	6,500,000
From England, in sheets,	3,500,000
From England, in cakes,	500,000
From mines in the United States,	500,000
Old copper, from various sources,	1,500,000
In all,	12,500,000

"It will be seen that nearly all the pig or raw copper imported is obtained from Chili (erroneously called *Peruvian copper* in this country), and that England supplies us, in refined copper and copper sheathing, with more than one fourth of all the copper consumed in the United States.

"The trade between the United States and the west coast of South America, embracing Chili, Bolivia, and Peru, is of the annual value of about one million five hundred thousand dollars. The principal articles of export are domestic cottons. Of these, ten or twelve millions of yards are sent annually, constituting more than half the entire value of all our exports to those countries; and as the value of the raw copper obtained in return bears the same relative proportion to all our imports thence, it may be truly said that we *exchange*, in our trade with Chili,

Digitized by Google

ten or twelve millions of yards of cottons for six or seven millions of pounds of copper.

"One of the causes, perhaps the chief cause, enabling us to compete with the English cotton manufacturers in that market has been, that we have made our principal returns in copper, and they have made theirs in the precious metals, usually the least profitable articles of commerce, as is well known to all practical merchants. Without domestic cottons for outward, and without copper for return cargoes, this trade must be abandoned. In the bill referred to, it is proposed to levy a duty of five per cent. on raw copper, and to admit copper sheathing free. Under the present law, where both are free of duty, the American manufacturer has to contend, unaided by government, against the low price of labor, abundance of capital, and cheapness of fuel, enjoyed by the English and Welsh manufacturer. The large imports of copper sheathing from England show the competition against which we contend, and against which we have hitherto sustained ourselves without any protective duty on this important article. But if, in addition to the advantages already enjoyed in England and Wales, the raw material may be taxed here, and copper sheathing be admitted free, we are in effect called upon to pay a bounty to the foreign manufacturer equivalent to the duty levied on the raw material. England now supplies us with more than half the copper sheathing we require; but with this new advantage of five per cent. she will furnish all.

"A large portion of the copper we import from England is made from ores or pig copper obtained in Chili; and if the proposed duty on raw copper be exacted, nearly all that we now get from Chili will be sent to England, and, being there manufactured into sheathing, will be sent to the United States; thus giving to English vessels the benefit of transporting, and to English manufacturers the profits of refining and rolling the raw material, besides depriving us of our best market for the sale or exchange of our domestic cottons.

"It is estimated that the capital now invested in copper manufactures in the United States is about one million and a half of dollars, embracing five refining and rolling mills, and employing a large number of workmen. Hitherto these establishments have struggled, unaided by government, against the superior advantages of English and Welsh manufacturers; and we now only ask for them a continuance of the same freedom of competition. We ask no privileges or special protection. If the bill referred to become a law, these must be closed, or continued under ruinous disadvantages.

"The navigating interests thank you for competition, but let it be a state of competition. Do not proceed in carrying out duties in such

Digitized by Google

sort as to put down the whole American product, using none but the manufactures of England for the sheathing of your vessels."

I will read another paragraph from the petition:—

"We have thus shown what will be the effects of the proposed duty; the impolicy of the principle involved is not less obvious. Without entering into the hackneyed question of free trade and protective duties, we may freely aver that it is not the intention of Congress to tax the citizens of the United States for the benefit of foreigners; and yet such is the operation of this duty. We tax a raw material, which we want for manufacturing purposes, and we charge our manufacturers with that tax, if at the same time we allow foreigners to manufacture that material and send it to us free of duty. This is a bounty to foreigners, and a tax upon ourselves. What would be said of the policy of England, were she to tax raw cotton and admit cotton manufactures free of duty?"

There is another article, white-lead, with respect to which the same policy is observed; and on that subject I have received the following statements from a very intelligent and respectable quarter in New York:—

"The capital invested in the manufacture of white-lead in the United States amounts to upwards of two million three hundred and fifty thousand dollars. About one thousand men as laborers are employed in the business, and forty-two million pounds, or six hundred thousand pigs, of lead, all of which is the produce of the Missouri and Illinois mines, in the fabric. The present duty is four cents per pound, the proposed duty is twenty per cent., which will be equal to one cent, or at most to one cent and one fifth, per pound. The white-lead manufactured in the United States is *not inferior* to that of any other country, and has attained its present goodness within the last three years, owing principally to the encouragement given by the tariff of 1842, which has induced the investment of large additional capital in the manufacture of the article, thereby creating great competition amongst the manufacturers.

"The price of pure lead in oil in 1820, at which time there were but two factories in the country, was fourteen cents per pound. Since that time it has been gradually declining in price, and is now worth only six and a half cents.

"Perhaps there is no article imported into this country in favor of which there is so strong a prejudice as that of English white-lead; for, notwithstanding the duty of four cents, considerable quantities are yearly

Digitized by Google

imported and sold at a profit to the English manufacturer. If with the present duty, the American manufacturer can merely sustain himself against the prejudice existing in favor of the foreign article, should the duty be reduced to one cent per pound, what but total ruin must to him be the consequence?

"We think the foregoing facts could not have been known to the framers of the bill now before the Senate, and that the Senate will see the justice of transferring it to the schedule of articles under the *forty*, or at least the *thirty* per cent. duty."

Mr. President, there is one manufacture just beginning amongst us, of such an interesting character to the labor of the country, and the agricultural interests, that I beg to call the particular attention of the Senate to it. It is that article which they call *mousseline de laine*, a woollen fabric just commenced in this country, and whose early life is to be crushed by this bill. It has been a matter of immense import for some years past. Now I wish to state the facts connected with one of the establishments just set up for the manufacture of this article. There was no manufacture of this article before the tariff of 1842. After the tariff of 1842 was enacted, it began in several of the Middle and Eastern States. Among the rest, within a few months, or at least within the year, a manufactory of this kind has been attempted to be established at Manchester, New Hampshire, near the residence of my honorable friend from that State, on my right.* It proceeds on the basis of a large capital. Those concerned ask for no new protection. They can maintain themselves under the tariff of 1842. But what will be the consequence, if this mischievous measure is to prevail? I have a statement from the agent conducting that establishment, an intelligent and respectable gentleman, every way worthy of credit and reliance; and I beg leave to refer to it, for the especial consideration of the gentlemen from Ohio and Pennsylvania. He says that, before there was any expectation that this bill would pass, they had sent agents into Ohio and the western part of Pennsylvania to buy wool; that they proposed to buy annually from three hundred thousand to five hundred thousand dollars worth of wool in those States, and perhaps in the western part of New York. I suppose that is of some importance to the

* Mr. Cilley

Digitized by Google

wool-growers of Ohio, Pennsylvania, and New York. When the news reached New Hampshire that this bill, as it now stands here, had passed the House of Representatives, these agents were directed not to buy another pound; and they never will buy another pound until they know that this bill cannot pass. This is an eminent instance in which home manufactures aid agriculture. It well deserves the attention of all wool-growers. When will the Western farmers sell as much wheat annually to England, as shall equal their loss, by this bill, in the article of wool alone?

Mr. President, here is another petition, or a paper in the form of a petition, respecting another raw material. It furnishes another small, but striking exemplification of the nature of the bill. Hear what the persons concerned in this manufacture say: —

"*New York, July* 13, 1846.

"Dear Sir, — The subscribers, manufacturers of brimstone, respectfully ask the liberty to call your attention to the following facts.

"About four years ago, they commenced the manufacture or refining of brimstone. Previous to that time, all the brimstone used in making gunpowder, and for other purposes, in this country, was imported from Europe, chiefly from France and England, and the price was about seventy-five dollars a ton.

"Since the introduction of the manufacture as above mentioned, the price has been very much reduced, and is now, and has been for more than a year past, a fraction less than forty dollars a ton.

"The tariff of 1842 admits crude brimstone free of duty, and levies a duty of twenty-five per cent. upon refined. Mr. McKay's bill lays a duty of fifteen per cent. on crude, and only twenty per cent. upon refined brimstone.

"The quantity of crude imported into the country is not large, and the amount of revenue which can be raised from it will be more than counterbalanced by the increased price which government will be obliged to pay for its annual purchases of brimstone for the Ordnance and Navy Departments.

"Should McKay's bill become a law without amendment, the manufacture in this country must be abandoned, because the advantage in low rate of wages, interest, and so forth, enjoyed by the European manufacturer, will enable him to undersell the American in his own market.

"In view of the national importance of the manufacture of this indispensable munition of war, the undersigned respectfully and earnestly

Digitized by Google

solicit you to use your influence to have the article of crude brimstone taken from schedule E, and placed on schedule H, of the proposed tariff, so as to be admitted, as at present, free of duty.

"Very respectfully, your obedient servants,

"JEFFRIES & CATTERFIELD.

"Hon. DANIEL WEBSTER."

Thus we see a reduction in the price of this article of thirty-five dollars a ton, in consequence of the tariff of 1842, and the manufacture of which will now be totally destroyed by this bill.

I shall read another letter, relating to an article connected with that topic, which was alluded to, and very handsomely discussed, yesterday, by my friend from Rhode Island.* It is a very curious specimen of legislation with reference to an article of some importance, sulphuric acid: —

"*Boston, July* 9, 1846.

"SIR, — I have works in Newton for the manufacture of sulphuric acid, or oil of vitriol, the most extensive works of the kind in the country, and knowing you would wish to be put in possession of the bearing of the proposed tariff of Mr. McKay upon the different interests it affects, I take the liberty of showing the operation of it upon the article that I manufacture, and the obvious design of some one to strike a blow at this business. By this tariff, acids of various kinds, such as muriatic, nitric, and others, used for chemical or medicinal purposes, or for manufacturing, or in the fine arts, are charged with a duty of twenty per cent., unless otherwise provided for.

"As an exception to other acids, sulphuric acid, or oil of vitriol, is particularly specified, and is charged with a duty of ten per cent., and the material from which this is made, sulphur, which has been heretofore free, is charged with a duty of fifteen per cent. I have been at a loss to know the reason for singling out this acid in the way it has been, for it is evident that it has been particularly dwelt upon in constructing this tariff; and for the want of any information in the matter, I cannot avoid the suspicion that it has been arranged by the representation of those specially interested to crush the manufacture in this country.

"During the past year the supply of bleaching powders has been very short, so much so as to drive some of the bleachers into making a substitute, called bleaching liquor; and I am informed that the substitute is

* Mr. Simmons.

Digitized by Google

preferred by those who have used it, on account of its doing the work fully as well, and being much cheaper than the powders.

"The manufacture of bleaching powders has also been carried on in this country during the last ten years to a considerable extent, with a duty of one cent per pound on the imported, which is more than twenty per cent. And therefore I do not believe the article has yet been made to be profitable to manufacturers; yet the manufacture in this country of the powders, and more particularly of the liquor, is a cause of alarm to the foreign manufacturers.

"Sulphuric acid enters largely into the cost of making bleaching powders and bleaching liquor; and it is evident that the foreign maker of bleaching powders could not better attain his end than by raising the cost of making sulphuric acid in this country, at the same time that he gets a reduction of duty on his powder.

"As I have formed this opinion, I have thought proper to communicate it.

"I am, Sir, with high respect, your obedient servant,

"GEORGE GARDNER.

"Hon. DANIEL WEBSTER."

Here, then, on the one hand, the foreign agent prays for and urges the passage of Mr. McKay's bill; and, on the other, the American manufacturer implores us to stick to the tariff of 1842, reject Mr. McKay's bill, and suffer him to go on and get an honest living, as heretofore. They have a directly opposite interest; and as it is no matter of revenue of any considerable amount, how are we to interpret the fact, that the former is so obviously protected at the expense of the latter? How is it that, in this contest, the foreign manufacturer obtains the preference? Are the suspicions of this gentleman, whom I know to be a highly respectable man of business, entirely unreasonable? He says there must have been some one at work, having an interest foreign and hostile to the interest of the American producer of this article, and similar articles; and judge you, whether that be not the case. It is plain and manifest that it is an English provision, favorable to English labor, and prejudicial to American labor.

I am admonished that it is high time to leave these various articles; I will not call them minor articles, because they are all important. There are many more to which I might have directed the attention of the Senate. There are the articles of skins and pelts, of which nothing is said here, but which affect

Digitized by Google

a great many hundred persons employed. The same thing takes place in regard to them. The raw material is taxed higher than the manufactured articles. Now, I want somebody to show if the result of this bill be not to benefit the foreign manufacturer and laborer, at the sacrifice of our own manufacturer and laborer. I wish somebody to show where there is one case in which discrimination has been resorted to, and in which it has been in favor of the American laborer or the American manufacturer. Everywhere it is the other way.

Sir, the honorable member from Connecticut* spoke, the other day, of a "petty Congress" of subordinate persons, brought together from about the custom-houses and the great marts of importation, and of the evident proofs that this bill was prepared in that "petty Congress." Mr. President, I know nothing of that; but I say, not willingly, but from a sense of duty, that the long series of provisions contained in this bill, in which discrimination is obviously made *against* the American manufacturer, and *in favor* of the foreign manufacturer, gives rise to very awkward suspicions. If there has been, in truth, such a "petty Congress" as has been mentioned, for whose benefit were its deliberations carried on? What interest, whose interest, was its "petty Senate," and its "petty House of Representatives," assiduously seeking to promote?

But I now go from these interests to articles of more prominence, and perhaps greater importance; and I wish to say, that in discussing the effects of this tariff upon the industrial labor of the country, with the single exception which I have named in regard to the new manufacture of *mousseline de laine*, I make no particular comment on this bill, in regard to the great interests of that part of the country with which I am connected. I leave that to the consideration of others. I will not permit myself to be supposed to be influenced, on these topics, by the interests of manufacturers around me, and amongst whom I live, and for whose prosperity and happiness I never can feel unconcerned. Driven from her original and chosen pursuit, to which she had been enthusiastically addicted, commerce, and compelled to enter upon the field of manufactures, twenty-two years ago, if it be now the pleasure of this government, if it be the sense

* Mr. Niles.

Digitized by Google

of the American people, if the South, and the Middle, and the West say so, New England *can go back, and still live.* You can distress her, you can cripple her, you can cramp her, but you cannot annihilate her industry, her self-respect, her capacity to take care of herself. A country of workingmen who are able, if necessity calls for it, to work fourteen hours a day, may bid defiance to all tariffs, and all miserable, false, partial legislation. They stand upon the strength of their own character, resolution, and capacity; and by this strength and that capacity they will maintain themselves, do what you please. Not, Sir, that there is one house in New England, at this moment, in which the proceedings of this day are not looked for with intensest interest. No man rises in the morning but to see the newspaper. No woman retires at night without inquiring of her husband the progress of this great measure in Washington. They ask about it in the streets. They ask about it in the schools. They ask about it in the shoemakers' shops, the machine-shops, the tailors' shops, the saddlers' shops, and, in short, in the shops of all artisans and handicrafts. They ask about it everywhere. And they will take whatever answer comes as men should take it; and they will feel as men should feel when they hear it. I therefore leave, Sir, to the Senate, all these considerations. I will not suffer myself to be subjected to the temptation of being led away by causes which might be supposed to influence me, and turning from them, therefore, I proceed to the consideration of other subjects, in which, so far as New England is concerned, if she have any interest at all, it is in favor of this bill, and against protected interests. Does she mean the less to exercise her power, little or great, or whatever it may be, in favor of those whose interests are menaced by this bill? No, Sir; never.

I am now about to speak of the iron interest and the coal interest; great interests, in which several of the States are concerned, but which, by way of eminence, men are accustomed to call the great Pennsylvanian interests; and so they are. Massachusetts is a purchaser of Pennsylvania coal, and she is a purchaser of Pennsylvania iron. She is one of the best purchasers of these articles from her Pennsylvania friends. She will, to the extent of her power, maintain a just system for the preservation of these great interests, precisely as if they were her own. And,

Digitized by Google

Sir, I do not fear that I am running any hazard at all when I say, that this feeling of Massachusetts towards Pennsylvania is entirely reciprocated by Pennsylvania towards Massachusetts. I hear it whispered about these halls, that there might come some *specific* for the case of Pennsylvania: that there might be an amendment moved to soothe her on the subject of iron and coal, leaving all the rest of the country to the desolation of this bill. But, Sir, no such thing can take place. Pennsylvania would not degrade herself by accepting such a boon. Pennsylvania stands, and her representatives here stand, pledged and instructed to the tariff of 1842. But I take this occasion to say for myself, that I am now arguing against this bill, this particular bill, and I have not said, and I shall not say now, what other provisions it might be advisable for the houses of Congress to adopt. But I have not the least fear in the world, Sir, that Pennsylvania is going to bend her proud neck, to take a boon from those who are inflicting this severe measure of discomfort and distress upon the country; that she will just take a sop to herself and turn her back upon her friends. There is not a Pennsylvanian who would consent to such a degrading, debasing, discreditable act of selfishness. Now let us proceed to consider these important subjects of the iron trade and coal trade of Pennsylvania.

It is well known that Pennsylvania is very rich in mineral wealth. Next to England, Pennsylvania, considering her connection east with the Atlantic and west with the Mississippi, and then considering her soil and mineral productions, is perhaps the richest spot on the face of the globe. She has greater means of supporting population than any country I know of in the world, except it be the south end of the island of Great Britain. For thirty years, the making of iron in Pennsylvania has been a considerable business. The present duty on iron, by the law of 1842, is $25 per ton for plain bar-iron. The proposed duty is thirty per cent. *ad valorem* on the imported article. Now, the price of iron at Liverpool at this moment is £8, or $40, per ton. The amount of duty, therefore, proposed by the bill, that is to say, a duty of thirty per cent. *ad valorem*, would be $12.50, or one half the present duty.

I will read the clause of the bill with respect to iron, for it is worthy of being read: —

Digitized by Google

"Iron, in bars, blooms, bolts, loops, pigs, rods, slabs, or other form, not otherwise provided for, thirty per cent."

Here we see, then, that the same *ad valorem* duty is assessed on iron as a raw material, and on all its successive stages of manufacture. There are proprietors in Pennsylvania who hold great estates in iron mountains, which are called "royalties." They sell the ore at so much a ton in the earth. This, as a raw material, is protected in the bill by a duty of thirty per cent. *ad valorem*. But the duty, being still the same thirty per cent. *ad valorem*, only rises on the article in different stages of its manufacture, as the value of the manufactured article progressively rises. American labor, therefore, gets no protection over foreign labor. As the manufacture of iron advances from one degree to another, it calls, in each successive step, for a higher degree of labor. But the bill makes no discrimination in favor of this labor. English labor, in advancing the manufacture of its higher stages, is as much regarded and protected as American labor. But as labor is higher here than in England, (and long may it continue so,) if there be not a discriminating protection, the work must of course fall into foreign hands, and the loss fall on the American laborers. The question, therefore, is one which touches the interest of the American worker in iron to the quick; and it will be understood by the man who works at the furnace, at the forge, at the mill, and in all the still more advanced and finer operations.

But now let us look to the act of 1842, and see its careful enumeration and specific assessment of duties on iron, and on articles of iron manufacture. It reads thus.

Mr. Webster here read at length the first six paragraphs of the fourth section of the act of the 30th of August, 1842, by which specific duties are laid upon imported iron, in every form of the unmanufactured or manufactured article.

Here we see *labor* protected. The duties are specific, and they are enhanced more and more as labor constitutes more and more of the value of the article. This is the spirit of the act of 1842. No such spirit is manifested in this bill.

Let me now, Mr. President, after reading this long legal enactment, direct the attention of the Senate to the amount of capital invested in the iron interests at this time in Pennsylvania.

Digitized by Google

			Annual Product Tons.
Furnaces up to 1842,	Charcoal,	206	173,369
	Anthracite,	7	16,487
		213	189,856
Furnaces since 1842,	Charcoal,	67	75,200
	Anthracite,	36	103,000
		316	368,056
Increased product of old furnaces,			37,971
Product of new furnaces,			178,200
			216,171

This prodigious increase of the business has, of course, called for a large investment and employment of capital, which, after much reflection, is estimated at forty-seven dollars per ton for every ton of pig metal manufactured by charcoal, and twenty-five dollars per ton for every ton manufactured by anthracite. This would give, for seventy-five thousand two hundred tons of the former, a capital of $3,534,400, and for one hundred and three thousand tons of the latter, a capital of $2,575,000; making together the enormous sum of $6,109,400 invested in furnaces alone since 1842. The aggregate capital, therefore, would be calculated upon the same estimate: —

	Tons.	Capital.
Charcoal furnaces previous to 1842,	173,369	$8,148,343
Anthracite furnaces previous to 1842,	16,487	412,175
		8,560,518
New,	75,200	6,109,400
	103,000	
	368,056	$14,669,918

These 368,056 tons, at $30 per ton, would be worth	$11,040,680		
It is probable that one half of this metal is converted into bar, hoop, sheet, and boiler iron, and nails, at a cost of at least $50 per ton more,	9,201,400	Capital for conversion at $20 per ton,	3,680,560
The other half into castings at $20 per ton,	3,680,560	Do. at $10,	1,840,280
	$23,922,640		$20,190,758

And where does this enormous sum of money go, and how is

Digitized by Google

it expended? All in labor and agricultural products. For of what material is iron composed? Coal, limestone, iron ores, sand, and fire-clay, almost worthless unless converted into iron. The number of men employed in producing the above iron would be, in the charcoal operations, one man to every twenty tons, and in the anthracite, one man to every twenty-four tons of pig metal. This includes all the miners of coal and limestone, wood-choppers, and laborers of every kind. Upon this estimate there would be employed, in charcoal, twelve thousand four hundred and twenty-eight; in anthracite, four thousand nine hundred and seventy-eight; in all, seventeen thousand four hundred and six. Allowing a wife and four children as sustained by each laborer, we have a population of eighty-seven thousand and thirty. To which if we add the labor employed in its conversion into bars, hoops, sheets, boiler-plate, nails, castings, railway iron, and so forth, which would more than double those *directly* dependent, we should have one hundred and seventy-four thousand and sixty men, women, and children. But when we look still further, at the labor created by this business in railways, canals, and so forth, both that of man and horse, who can estimate it?

We see thus what the iron interest of Pennsylvania is. The inquiry now is, Can this interest survive, and hope to enjoy moderate prosperity, under the provisions of this bill? The people of the State of Pennsylvania ask the government to suspend execution of the sentence pronounced against them till the question shall be fairly considered.

Notwithstanding the acknowledged richness of the Pennsylvania mines, and notwithstanding the great improvements which have been made in the State in the means of transportation for heavy articles, there are yet disadvantages of a serious nature to be overcome. Her mountains abound with the best of iron ore, but then they are in the interior. They are remote from tide-water. The largest regions of iron production are a hundred and fifty miles from the navigable arms of the sea. The case is far different in Wales and Scotland, the furnaces in those countries being almost immediately contiguous to navigation. Hence their products are sent all over the world at less cost. English and Scotch iron may be brought to New York and Boston at one half the cost of bringing iron from the principal iron-works in Pennsylvania to the same markets.

Digitized by Google

Freight on iron from Wales and Scotland to New York and Boston may be stated, on an average, at from one dollar and fifty cents to two dollars and fifty cents per ton. But the average cost of transportation from the principal establishments in Pennsylvania to the same market is from three dollars to five dollars and a half per ton. When the tariff of 1842 went into operation, the English iron was uncommonly low, say £ 4 10*s.* per ton. With an *ad valorem* duty of thirty per cent., as proposed by this act, and the usual freights, the article could have been offered here at thirty-two or thirty-three dollars. Could Pennsylvania have stood this competition? It is plain that she could not, and that her iron-works must have stopped but for the helping hand of that act. I observe in the English Mining Journal of January last the following statement: —

"It will be remembered that in 1842 the amount of pig metal exported from Glasgow alone was seventy thousand tons; and it is a painful fact, that since 1842 the exportation of pig iron has all but ceased. Under these circumstances, we are at a loss to conceive how our surplus iron is to be disposed of."

On this English statement, an intelligent friend of mine remarks thus: —

"What will be the effect of this over-trading and surplus stock if it can be exported here under a thirty per cent. *ad valorem* duty? which is no duty whatever, for at the time it is most needed it is *lowest*. Specific duties are the only check which we have upon fraud and perjury? Abandon them, and you have effectually prostrated the trade, and placed us entirely in the hands of unscrupulous foreigners. But let us see how this *ad valorem* duty will work. In June, 1824, bar iron in England was £ 7 per ton, and in January, 1825, the price was £ 14 per ton, and it fell the same year to £ 10. In 1826 and 1827 the highest quotation was £ 9, while in 1832 it fell to £ 4 15*s.* In June, 1844, the price was £ 6; in April, £ 9 15*s.*; in July, £ 7 15*s.*; in October, £ 8 15*s.*; and in December, £ 10. Thus it will be seen that in 1832 thirty per cent. duty would have produced $ 6.84 per ton, while in December, 1844, it would have been $ 14.40, and in January, 1825, $ 20.16."

Sir, in my opinion, we have before us at this moment the general question, Shall we give efficient protection to the American production of iron? If we say we will, then it is clear this bill ought not to pass. If it should pass, leaving iron,

Digitized by Google

with all its manufactures and ramifications, at thirty per cent. *ad valorem*, they might just as well be put at five per cent. The trade would as soon have it so, as I understand. The manufacture declined under the old "Compromise Act." It rose in 1842, and the labor of persons employed rose in proportion That law was certainly hailed in Pennsylvania as being conformable to all her views and opinions. Now, Sir, let us come to a conclusion. Let us decide, once for all. I am for protecting the domestic iron interests of the United States. Are you? If you are, reject this bill. If you are not, say so, and pass the bill; and let every man along the branches and up to the sources of the Susquehanna and the Schuylkill, and every man beyond the Alleghanies, in Pennsylvania, and every man in Maryland, Tennessee, Virginia, and every other State in which iron is produced, understand you. Let us have no more fighting under false colors. Enough of that. If you favor the domestic manufacture of iron, reject the bill. If you wish to destroy that domestic manufacture, pass the bill.

Closely connected with the iron interest is that of coal; and therefore it is necessary to see how that great interest is likely to fare.

Pennsylvania produces of anthracite coal alone two million five hundred thousand tons annually. The capital invested in these anthracite mines, and the several railroads connected with them, in all the coal-fields, is near forty million dollars. In the Schuylkill region alone, including the cost of the Reading Railroad and Schuylkill Canal, the investment amounts to twenty-six million eight hundred thousand dollars. The increase of product of the Schuylkill region, under the Compromise Act, from 1837 to 1842, was only thirty-two thousand tons. In the succeeding three years, that is to say, from 1842 to 1845, that increase amounted to no less than five hundred and sixty thousand. The price of labor, of course, became greatly advanced; but the price of coal fell from $5.50 per ton to $3.37. A pretty good proof this that prices may fall in consequence of protection.

And here, Sir, I wish to advert to a general fact, worthy to be recollected in all our political economy. The increase in the investments of capital in great works of this kind tends to reduce the profits on that capital. That is a necessary result.

Digitized by Google

But then it has exactly the reverse action upon labor; for the more that capital is invested in these great operations, the greater is the call for labor, and therefore the ratio is here the other way, and the rates of labor increase as the profits of capital are diminished. Well, is there any thing *undemocratic* and unpopular in such a system as that? a system that causes a diminution of profits to the capitalist and an increase of remuneration to the hand of labor.

But the serious inquiry now is, whether Pennsylvania coal, with the degree of protection which this bill proposes, can maintain competition with the coal of Nova Scotia and New Brunswick? That is a matter of commercial calculation and of figures. The present duty on coal is $1.75 per ton. This bill puts the duty at thirty per cent. *ad valorem*, which is equal to forty-two cents per ton at present prices; that is to say, it is now proposed to reduce the duty on coal by the difference of $1.33 in every ton; a sum almost equal to the price of coal in Nova Scotia.

Nova Scotia coal, on board the vessel in the harbors of that Province, costs $1.50 per ton. If to this we add the duty at thirty per cent., the aggregate will be $1.95. Coal, therefore, on board vessels in Nova Scotia, costing $1.95 per ton, is free to proceed to any part of the United States. The freight of coal from Nova Scotia to Boston, I am informed, is now $2.25 per ton. So that the cost of a ton of Nova Scotia coal at Boston, duties included, will be $4.20.

The cost of coal on board the vessel at Philadelphia is said to be $3.50; $2.00 being the price at the mines, and $1.50 the cost of land transportation. Adding freight from Philadelphia to Boston, at $1.75 per ton, the Pennsylvania coal will cost in Boston $5.25. The Nova Scotia coal is cheaper, therefore, by the difference between $4.20 and $5.25. This difference of twenty per cent. is of course a serious matter, and is likely to be entirely fatal to the home article. One cannot say how soon it may come about, but there would seem to be no doubt, that, in the end, the coal from the Provinces must take the place of that from Pennsylvania under such a tariff as this. It will be seen, if this statement of costs and prices be accurate, that the rate of duty proposed by this bill is no protection whatever. The foreign article might as well come in free. The coal

Digitized by Google

of Pennsylvania, like her iron, is far in the interior, and although it is brought to navigable waters by one of the noblest of works for land transportation, yet the charge is heavy. As will be seen by the statements which I have already made, the freight of coal from Pottsville to tide-water is equal to the cost of the article on board the vessel at Nova Scotia. Land transportation of heavy articles over long distances is necessarily expensive, notwithstanding the means of conveyance may be highly improved. The cheaper transport by sea is seen in many striking instances.

New England is not a limestone country. There is very little of her surface that can be called limestone land east of the Green Mountains. On the other hand, great portions of the Middle States and some portions of the Southern States have lime in abundance. Yet lime from Maine finds its way to the cities along the Southern coast, and sometimes, I believe, even to New Orleans. This is because, although Maine is not what can be called a limestone country, she yet happens to have one vast quarry upon the very edge of salt water.

It is said that there are mines at Wilkesbarre, from which coal may be placed on board of boats in the rivers at the Nova Scotia price; that is to say $1.50 per ton, or even lower, say $1.00; and in these boats it may reach tide-water by inland navigation. Yet the distance is great, and the expense so large, that the article only holds competition with the Pottsville coal. Distance is comparatively of little moment in conveyance by sea. I think I have heard it stated that manufactures of iron, such as nails, may be brought from Massachusetts into Market Street, Philadelphia, for less cost of transport than the same articles can be brought to the city from works ten miles off.

For all practical purposes, therefore, we must consider the iron mines of Wales and Scotland, and the coal mines of Nova Scotia, as being close by us. And if we mean to be supplied by our own products, we must act accordingly.

Sir, there is another view of this subject not uninteresting, and very fit to be taken. What is coal? A coarse and raw natural product. What is it which has created its value at the moment it comes to be consumed? Clearly, labor. It is the product of human labor; and that labor, while giving value to coal, has called for contributions from many other branches and

Digitized by Google

varieties of human labor. Coal undug, and still in the mines, at Pottsville, is worth twenty cents per ton. At the place of consumption, at New York or Boston, it is worth $5.25 per ton. The difference is the value added to the original material by the hand of man; and to the creation of this value, farmers, merchants, tradesmen, mechanics, ship-builders, sailors, and those employed in the land transportation, have all contributed. To these, therefore, it has given employment. The population of Pottsville is said to consume a million of dollars annually of agricultural products; and another million, probably, in manufactured articles. Thus the miners, the farmers, and the mechanics stand side by side in this great interest. Shall they be protected against injurious foreign competition, or shall they not?

Sir, the calculations which I have submitted have been made from *data* or materials furnished from authentic sources, and I believe they may be relied on.

Mr. Johnson of Maryland here rose and said, that it was now late in the day, and, if the Senator from Massachusetts would yield the floor he would move that the Senate adjourn.

This motion prevailed, and the Senate here adjourned.

On Monday, the 27th of July, Mr. Webster resumed his argument as follows: —

It is a circumstance a good deal characteristic, Mr. President, of the state of things in which we find ourselves placed, and strongly indicative of that absorbing interest which belongs to the question before us, that I have not the honor, to-day, to address a full Senate. Since the commencement of my observations on Saturday morning, an honorable member from one of the Southern States* has vacated his seat in this body. We perhaps may soon hear from him the reasons which led him to leave the situation which he had occupied with so much usefulness and reputation. I am no otherwise acquainted with those reasons, than as I gather them from a very extraordinary article in the government paper of this morning, or rather of Saturday evening. From that I infer that the honorable member left his seat here from an inability to support the measure of the administration now before us, and from a great unwillingness, on the other hand, to disoblige his party friends and connections by

* Mr. Haywood of North Carolina.

Digitized by Google

voting against it. Sir, as he has gone, I may speak of him as a man of character and standing, here and at home; a man of learning and attainments, of great courtesy, and of unsurpassed industry and attention in the discharge of his public duties; and, as we all know, as far as we can judge of his course in the Senate, an intelligent and constant friend of the present administration.

Now, Sir, I confess that I am ashamed of my country when I see a gentleman of such character, on his retiring from this place from such a motive, hunted, abused, defamed, according to the degree of abuse and defamation which some writer for the government, in the paper of the government, sees fit to pour out against him. It is a disgrace to the civilization of the age. It is a disgrace to American civilization. It is a disgrace to this government. It is a disgrace to the American press.

Another article of common intelligence is not unworthy of notice, before I proceed to the remaining observations which I intend to submit to the Senate. If we may believe the current reports of the day, the administration of the government is now in possession of official and authentic information that an extraordinary and vigorous effort is making throughout the whole republic of Mexico to sustain herself in the war now carried on against her by the United States. I suppose the government is now informed that Bravo is appointed President of Mexico *ad interim*, and that Paredes, with such forces as he can collect, is marching to the north; and that there is a spirit of united resistance, united action, and of general contribution toward the defence of the country, such as was never manifested before; that the clergy contribute, that the provinces contribute, that individuals contribute, in a manner altogether unknown in Mexico since the time of her revolution. I suppose that the government is at this moment in possession of intelligence to this effect; how well founded the information is they are to judge; but that they have such information, from official sources, I entertain no doubt at all. I refer to it only as affording a new reason why we should do nothing to disturb the just expectations of revenue, or to diminish the necessary income of the treasury.

Now, Sir, as connected with that subject, I will read to the Senate a paper which I had not strength to read on Saturday, and I will make no comment on it, except so far as to describe

Digitized by Google

the character of the gentleman who wrote it, and the character of the gentleman to whom it was addressed. The writer is Edward H. Nichol, Esq., of the city of New York, a merchant of very high character in that city; a gentleman every way friendly to the present administration of the government and to the party now in power; a gentleman who was an administration candidate, very recently, for a seat in the other house of Congress. The letter respects the effect of this bill on six articles of importation, viz. spirits, pepper, pimento, cassia, cloves, and sugar and molasses. It is addressed to Isaac Townsend, Esq., another highly respectable merchant, and of the same political associations. And I will venture to say, that, if the gentlemen connected with the administration of the government had sought amongst all its friends of the mercantile class, throughout the whole country, for the most intelligent and competent gentlemen to give them their opinions and advice on the subject of this tariff bill, they would have found nobody of superior qualifications for that office to Mr. Edward H. Nichol. Having said so much, I will read this letter, and submit it to the Senate without further remark.

"ISAAC TOWNSEND, ESQ.:

"Dear Sir, — In answer to your note under date of the 13th instant, propounding certain questions as regards the present tariff, and the one now proposed and under discussion in the Senate, I answer in the following manner, viz.: —

Spirits. — The duty accruing on spirits of all kinds, under the present tariff, at 85 to 90 cents per gallon, may be estimated at $1,400,000 to $1,500,000

The average cost at the different places of production may be estimated at 42 to 45 cents per gallon, on which the *ad valorem* duty, as now proposed, would be 100 per cent., and, estimating the annual importation to be equal to that of the last three or four years, viz. 1,000,000 to 1,500,000 gallons, would yield about 720,000

Difference, ... $ 780,000

Pepper. — The annual consumption of pepper may be estimated at 3,500,000 pounds, present duty 5 cents per pound, yielding $ 175,000

The average cost at the place of production is 2¼ to 3 cents per pound, and proposed duty of 30 per cent *ad valorem* would yield 34,500

Difference, ... $ 140,500

Digitized by Google

Pimento. — The annual consumption of pimento may be estimated at 1,500,000 pounds, and, with the present duty of 5 cents per pound, would yield $75,000
The average cost at the place of production, 3¼ to 4 cents per pound, on which the proposed duty of 40 per cent. *ad valorem* would be about 18,000

Difference, ... $57,000

Cassia. — The annual consumption of cassia is about 1,000,000 pounds; and, at the present duty of 5 cents per pound, would yield $ 50,000
The average cost at the place of production is 7 cents per pound, and the proposed duty of 30 per cent. *ad valorem* would yield 20,000

Difference, ... $ 30,000

Cloves. — The annual consumption of cloves is about 160,000 pounds; at 8 cents per pound the present duty would yield . $ 12,800
The cost at the place of production is 13 to 14 cents per pound; at 30 per cent. *ad valorem*, ... 6,400

Difference, ... $ 6,400

Sugar and Molasses. — The annual duty accruing under the present tariff of 85 to 90 per cent. *ad valorem* may be estimated at from $ 3,000,000 to . . . . . $ 3,500,000
Whereas the proposed duty, 30 per cent. *ad valorem*, would yield 1,400,000

Say, difference, ... $ 2,100,000

Recapitulation.	Present.	Proposed.	Difference.
Spirits,	$ 1,500,000	$ 720,000	$ 780,000
Pepper,	175,000	34,500	140,500
Pimento,	75,000	18,000	57,000
Cassia,	50,000	20,000	30,000
Cloves,	12,800	6,400	6,400
Sugar and Molasses,	3,500,000	1,400,000	2,100,000
	$ 5,312,800	$ 2,198,900	$ 3,113,900

"You will notice by this hasty sketch which I now hand you, that the difference between the present duty and that now proposed is about three millions one hundred and thirteen thousand nine hundred dollars on the various articles above named. It is to be presumed that there will be a gradual increase of importations; yet a number of years must elapse before it will make up the deficiency. As regards the exportations of foreign merchandise, should the proposed tariff become a law, it is difficult to arrive at any definite conclusion. It is to be presumed, however, that, with the large surplus in the different warehouses now in the At-

Digitized by Google

lantic cities, and the very limited demand we must have previous to the 1st of December, (as no jobber or vender will buy any more than to supply his daily demands,) the exportations will be large, exceeding the ordinary exportations under the present tariff, and may make draughts on the various custom-houses, in debenture, to the extent of $800,000 to $1,000,000 more than otherwise would be.

"The importers, should the proposed tariff become a law, will very soon begin to ship their goods out of the country; then reimport them, and place them in the warehouses, to remain or be taken out in detached parcels previous to the 1st of December; when whatever then remains will be subject to a low duty. How much better and more just would it be (as was the case when the reduction of the tariff took place in 1830 and 1831) to let all merchandise "not in broken parcels" go to the custom-house on the eve of the 1st of December, and remain, rather than force the merchants to the expense of shipping for the purpose of *evading* the present duties.

"You must be aware, as well as myself, that the importations for the next five months must be extremely limited, and that all the goods that are imported for the next five months will go to the public stores for the benefit of the proposed reductions. Consequently, the government will derive little or no revenue from foreign importations for that period.

"So far as my experience teaches me, I have ever been in favor of specific instead of *ad valorem* duties, believing that the revenue is more securely collected, and extending likewise protection to every honest importer. You will notice that two thirds of the merchandise imported subject to *ad valorem* duties is brought into our city by foreigners. These men come among us possessing no national feeling, and little or no regard for our laws or institutions, and a custom-house oath is but a by-word with them. They locate themselves in by-streets and alleys, subject to no military or jury duty, and pay little or no taxes. They have a branch of their house or workshop in Europe, and however intelligent or adroit our appraisers may be, it is almost impossible to detect them in their falsified invoices.

"Should the proposed tariff become a law, the American merchants will, from necessity, almost cease to be importers, so far as our trade is concerned with Europe. Therefore, let our duties be ascertained by weight and measure, and we shall at least stand a fair and equal chance at the custom-house with these foreign importers.

"If these remarks should be of any service to you, I shall be pleased and gratified, and I remain, respectfully, yours.

"Edward H. Nichol.

"*New York, July* 17, 1846."

Digitized by Google

On Saturday, Mr. President, I submitted remarks, estimates, and calculations upon the subject of iron and coal, and I founded those remarks and estimates on the iron and coal of Pennsylvania for the sake of precision, and to make such calculations an example of the rest. I have now only to say, in that respect, that there are also iron and coal in New York, in Tennessee, in Georgia, in Virginia, in Maryland, all coming in, share and share alike, for the good or for the evil which the new system will produce.

I now proceed, Sir, to say something upon the influence, the necessary influence, which this proposed change in our system will exercise upon the commerce and navigation of the country. I shall do that by exhibiting a series of tables which will speak for themselves; which I know to have been drawn up with great accuracy, founded on the last official communication of the Secretary of the Treasury, so far as revenue is concerned, and on estimates regarding the value of freights, collected from the first mercantile sources in the country. As a general remark on these various papers, and one which they fully confirm, I wish to say, what would naturally be expected to be true, that for some years past, since the favor and protection of the government were given to the internal manufactures of the country, the foreign trade of the country has conformed to that state of things. A change in the business of navigation, and commerce, and freight, consequent upon these internal changes, is quite as striking as these internal changes themselves. The great element of that change is in the nature of the main articles of import, showing a diminution of manufactured articles, and a vast augmentation of raw materials, or articles serving as such. The consequence of this, as will be seen by the tables I am about to exhibit, is a large actual increase of the earnings of the shipping interest on imports; because, as all know, the freight is proportioned to the bulk of the article, and not to its cost. It is the space that the commodity fills in the ship, and not its value, which regulates the rate of freight. Therefore it is, that, though the importations may be greatly augmented in value, from being composed of manufactured articles chiefly, yet the freight is not increased in the same ratio, but may be diminished. That fact is notorious to all who are acquainted with

Digitized by Google

the commerce of the country. It is perfectly understood by all the ship-owners of the United States, and is of itself sufficient to account for the great and important fact, that the navigating interest of the United States, the ship-owners to a man, oppose this change, because the existing system gives more employment to navigation than that which is now attempted to be substituted for it.

A heavy mass or amount, in value, of manufactured articles, as is well known, comes from France and England. Our more various commodities, and our importations of heavy articles, come from round the Capes, and from Brazil and the North of Europe. The tables which I propose to exhibit to the Senate will show the amount of these, respectively, and the change produced in them within the last five years.

Let me first premise, that articles of import into the United States are properly divisible into three classes. First, those articles which come here manufactured, and fit for use or for sale; secondly, articles not manufactured, brought here for consumption as imported, without any manufacture after they arrive; thirdly, those articles which are in the nature of raw materials, and are brought here to undergo a process of manufacture. Let us, then, see the amount of freight derived from these three respective classes of imports.

NET IMPORTS FOR 1845.

1. *Foreign Manufactured Articles.*

Articles.	Value.	Duties.	Freights.
Silk,	$10,840,000	$2,968,000	$36,100
Wool,	10,750,000	3,755,000	80,625
Cotton,	13,360,000	4,908,000	133,360
Flax,	4,893,000	1,263,000	48,930
Iron,	4,022,000	1,607,000	120,360
Railroad iron,	1,000,000	600,000	96,000
Cigars,	1,086,000	305,000	25,000
Brass and other metals,	3,690,000	688,000	55,500
Earthen and glass ware,	3,122,000	1,087,000	218,540
Clothing, ready made,	1,108,000	449,000	11,080
Hats and bonnets,	732,000	256,000	10,980
Leather, boots, and shoes,	848,000	242,000	12,720
Paper,	276,000	60,000	4,140
Cotton bagging,	102,000	56,000	1,530
Other unenumerated articles,	3,000,000	250,000	75,000
Total,	$58,829,000	$18,494,000	$929,865

Digitized by Google

2. *Foreign Articles for Consumption.*

Articles.	Value.	Duties.	Freights.
Coffee,	$ 5,380,000	Free.	$ 943,580
Tea,	4,809,000	Free.	343,000
Sugar (proportion of),	2,024,000	$ 1,067,000	375,000
Wines,	1,493,000	1,292,000	111,925
Spirits,	1,095,000	1,554,000	109,500
Fruits and spices,	1,480,000	560,000	124,000
Molasses (proportion of),	1,000,000	300,000	280,000
Salt,	883,000	678,000	247,000
Coal,	188,000	130,000	88,000
Fish,	300,000	50,000	30,000
Beer, ale, and porter,	90,000	19,000	8,000
Other unenumerated articles,	1,500,000	89,000	225,000
Total,	$ 20,242,000	$ 5,739,000	$ 2,985,005

3. *Foreign Articles for Manufacture in the United States.*

Articles.	Value.	Duties.	Freights.
Sugar (proportion of),	$ 2,025,000	$ 1,510,000	$ 562,500
Molasses (proportion of),	2,072,000	591,000	450,000
Iron (proportion of),	2,966,000	1,401,000	415,000
Steel,	750,000	97,000	25,000
Hides and furs,	4,706,000	332,000	610,000
Copper and brass,	1,951,000	Free.	140,000
Mahogany,	248,000	40,000	49,600
Wool	1,667,000	123,000	330,050
Rags,	416,000	27,000	75,000
Saltpetre,	486,000	Free.	245,000
Hemp,	483,000	173,000	78,000
Indigo,	768,000	53,000	15,000
Dye-stuffs, &c.,	294,000	Free.	190,000
Bristles,	178,000	3,000	4,000
Camphor,	143,000	35,000	3,000
Dye-woods,	337,000	Free.	50,000
Linseed,	369,000	19,000	205,000
Raw silk,	710,000	173,000	12,000
Other unenumerated articles,	2,000,000	100,000	295,000
Total,	$ 22,569,000	$ 4,677,000	$ 3,754,150

RECAPITULATION.

	Value.	Duties.	Freights.
Foreign manufactured articles,	$ 58,829,000	$ 18,494,000	$ 929,865
Foreign articles for consumption,	20,242,000	5,739,000	2,985,005
Foreign articles for manufacture in this country,	22,569,000	4,677,000	3,754,150
Aggregate,	$ 101,640,000	$ 28,910,000	$ 7,669,020

Now, Sir, I have said that changes have taken place in the foreign trade of the country since the enlargement of the manufacturing system of the United States, which were naturally to be expected. And I think it was suggested the other day by my friend from Vermont, near me,* that a common and great

* Mr. Phelps.

Digitized by Google

mistake is, that we do not accommodate our legislation to these changing circumstances; and that we think that we can go back to where we were years ago, without disturbing any interests except those immediately affected; whereas, such are the connection and cohesion of all these interests, and so closely are they united, that they become at last mutually dependent on each other, and there is no disturbing one great branch of the system without injury to all the rest.

Here is a table of our trade with South America, and beyond the Capes, with a comparison of that trade in the year 1828 and the present year.

Comparison of our Trade at two different Periods with Places beyond the Cape of Good Hope, and South America.

In 1828.

Names of Places.	Imports.	Domestic Exports.	Tons of Shipping employed.
Dutch East Indies,	$ 113,000	$ 83,000	1,454
British East Indies,	1,543,000	55,000	2,589
Manilla,	60,000	20,000	829
China,	5,340,000	230,000	9,900
Buenos Ayres and Montevideo,	317,000	94,000	1,363
Brazils,	3,009,000	1,505,000	24,482
Other South American ports,	1,904,000	1,776,000	8,672
Total,	$ 12,286,000	$ 3,763,000	49,289

In 1845.

Names of Places.	Imports.	Domestic Exports.	Tons of Shipping employed.
Dutch East Indies,	$ 935,000	$ 98,000	4,900
British East Indies,	1,650,000	338,000	10,479
Manilla,	725,000	92,000	6,636
China,	4,931,000	1,110,000	15,035
Buenos Ayres and Montevideo,	1,561,000	640,000	17,300
Brazils,	6,883,000	2,409,000	48,550
Other South American ports,	8,434,000	2,574,000	19,747
Total,	$ 25,119,000	$ 7,261,000	122,647
Increase,	104 per cent.	90 per cent.	150 per cent.

This great increase of tonnage employed over the increase in the value of imports, is owing to the present importation of the coarse and bulky articles for manufacture, instead of manufactured silk and cotton goods of China, Manilla, and Calcutta.

To be more particular, I now give a general description of the goods imported from those places in each year.

Digitized by Google

In 1828:—

	Value.
Manufactured cotton goods,	$1,041,000
Manufactured silk goods,	2,627,000
Indigo (which was imported for export),	1,030,000
Hides,	1,040,000
Sugar,	284,000
Copper, in pigs and bars,	650,000
Teas,	1,800,000
Wool,	18,000
Coffee,	1,700,000
Specie,	1,000,000
Unenumerated articles,	1,096,000
	$12,286,000

In 1845:—

Manufactured cotton goods,	$ 1,500
Manufactured silk goods,	150,000
Indigo,	660,000
Hides,	3,600,000
Sugar,	419,000
Copper, in pigs and bars,	365,000
Teas,	4,075,000
Wool,	563,000
Coffee,	6,600,000
Saltpetre,	500,000
Linseed,	300,000
Gunny-bags,	110,000
Drugs and dye-stuffs,	150,000
Ginger,	40,000
Cocoa,	170,000
Spices,	15,000
Hemp,	248,000
Specie,	1,200,000
Unenumerated articles,	5,952,500
Total,	$25,119,000

It is thus apparent that the increased employment of our tonnage to the amount of one hundred and fifty per cent. in this distant transport has been from the importation of the raw materials for manufacture in our country, and of the increased quantities of coffee and teas; and no doubt increased exportation of our domestic products to those distant places has been promoted by this increase in imports. These domestic products are manufac-

Digitized by Google

tured cotton and woollen goods, lumber, and articles of furniture, provisions of all kinds, naval stores, cotton, tobacco, ice, candles, and other miscellaneous articles.

I have another table, Mr. President, exhibiting our trade with the North of Europe, presenting the same general result, and, as we have ceased to import hemp to a great extent from Russia, the increase in the tonnage is principally from exportations.

Comparison of our Trade at two different Periods with the North of Europe, viz. Russia, Sweden, Germany, and Holland.

These show a falling off in the imports.	Value.
In the year 1828,	$11,214,000
In the year 1845,	4,059,000
Decrease of	$7,155,000
And an increase in our domestic exports.	
In the year 1828,	$5,085,000
In the year 1845,	6,346,000
Increase of	$1,261,000
And an increase in the tonnage employed.	
In 1828,	136,100 tons.
In 1845,	197,000 tons.
Increase,	60,900 tons.

This increase is from the transport of our domestic exports to those places.

It will be interesting to note some of the articles of import from those places, in which that reduction strikingly appears.

Articles Imported.	Value in 1828.	Value in 1845.
Manufactures of cotton and flax,	$2,190,000	$165,500
Manufactures of iron and steel,	2,204,000	677,000
Manufactures of glass,	458,000	128,000
Manufactures of leather,	330,000	2,100
Manufactures of sail-cloth,	345,000	186,000
Manufactures of linseed oil,	130,000	13,000
Manufactures of cordage,	145,000	54,000
Unmanufactured hemp,	990,000	211,000
Unmanufactured flax,	37,000	31,000
Unmanufactured wool,	97,000	31,000
Unmanufactured rags,	None.	12,000
Total,	$6,926,000	$1,510,600

Thus showing a reduction in the manufactured goods, hemp,

Digitized by Google

and other articles imported from those countries, of more than three fourths of the whole amount.

These facts are certainly of importance in considering the employment of our shipping in the transport coastwise of raw material, such as cotton, flax, hemp, iron, coal, &c., for the manufacture, in our own country, of goods which have taken the place of the foreign manufactured goods imported and consumed by us sixteen years ago.

A very important fact in connection with this part of the subject is, that this distant trade is in our own vessels. It is shared with none. We know that, in the trade between us and England, about a third of the navigation is in the hands of England. But the trade with the North of Europe is on American account, and to our advantage; and to a great extent, also, we pay for the importations by domestic products. We do not now hear of any extraordinary amounts of specie to meet the demands of this trade, because the products of our own industry and our own people, in a manufactured state, are carried out. These remarks might be extended to other tables showing like results; but I am quite desirous of getting through the duty which remains to be performed by me on this occasion, and I shall, therefore, pass this part of the case with a very few additional observations.

It is obvious, Sir, that, for the same reason that the raw material imported for the manufacturer pays a large proportion of freight, articles of export of like nature from our side for the same purpose pay also a large proportion, as every body knows is the case with cotton. This proves that, in every measure concerning the interests of navigation, we should consult rather the great and bulky articles than the small, where the value is great and the bulk diminished.

Now be pleased to notice these results. Fifty-eight millions of dollars in value of manufactured goods imported yield less than one million for freight. Twenty-two millions of dollars brought in articles to be manufactured here yield three millions and three quarters; being very nearly one half of all the freight earned on all our imports. Certainly, this is a most important fact, and worthy of all attention.

We propose, then, Mr. President, in the first place, to diminish and discourage labor and industry at home, by taxing the raw

Digitized by Google

materials which are brought into the country for manufacture. We propose, in the second place, to diminish the earnings of freight very materially, by diminishing the importation of bulky articles, always brought in our own ships. We propose, in the third place, to diminish the amount of exports of our own domestic manufactured goods, by refusing to take in exchange for them raw materials, the products of other countries. This is our present policy! This is our notion of free trade! Surely, Mr. President, this enlightened system cannot fail to attract the admiration of the world!

Now, Sir, one cannot say to what extent this change of system may affect the navigation of the country, but its tendency is, unquestionably, to cripple and cramp the navigating interest. Its tendency is to diminish the demand for tonnage, for navigation, for the carrying trade. I think I might on this occasion, without impropriety, call the attention of the Senator from Maine farthest from me,* a gentleman who here represents a State, if not first, at least among the very first, in regard to the amount of its navigation. The ships of Maine are found in every quarter; beyond the great Capes and in the North Sea. They bring home these raw materials; and every thing that diminishes the consumption of these raw materials in our own country diminishes the chances of employment to every ship-owner in the State of Maine. I will read an extract or two from a letter which I have received on this subject.

"*Baltimore, 20th July*, 1846.

"SIR, — I notice that the new tariff bill has in its schedules silk, mahogany, hides, Brazilletto wood, logwood, fustic, Rio Hache wood, Lima wood, sandal-wood, red cedar, pig copper, nitrate of soda or the sal soda of Peru, saltpetre, block, and all sorts of crude woods, and many drugs of bulk, all more or less dutiable, and tea and coffee left free.

"This is curious free trade.

"These are the articles that give our vessels homeward freights, and, being chiefly gross articles of great bulk, they appeal most strongly to be classed in the free list. You know very well that our outward-bound vessels to the English islands can get no sort of return cargo unless they go to Cuba or Porto Rico for sugar or molasses, or else to some salt port, or bring home some sort of wood or hides from St. Thomas or the Main. I speak of small vessels that trade to the West Indies and the Spanish Main.

* Mr. Fairfield.

Digitized by Google

"Gross, crude articles of this sort aid shipping interests, and assist making up cargoes to Europe of various such articles *if free*, such as logwood particularly, and Brazilletto and Rio Hache wood, in cotton ships, even, for dunnage.

"I call free trade the policy that lets crude articles in free, as in 'old times.'

"As far as I can judge, and being myself engaged in shipping interests, I think this bill very unfriendly to such interests; and as to being a free-trade bill, it is any thing else, as I understand free trade, as to the articles named.

"I am, dear Sir, your friend and fellow-citizen,

"WILLIAM MILES."

I now come, Mr. President, to the last topic on which I propose to trespass on the patience of the Senate; it is the effect of the change proposed by this bill upon the general employment, labor, and industry of the country. And I would beg, Sir, in this view, to ask the reading of a petition which has been lying on my table for some days, but which I have not had an opportunity to present. It is a very short petition from the mechanics and artisans of the city of Boston.* Now, Sir, these petitioners remonstrate against this bill, not in behalf of corporations and great establishments, not in behalf of rich manufacturers, but in behalf of "men who labor with their own hands," whose "only capital is their labor," and "who depend on that labor for their support, and for any thing they may be able to lay up."

Mr. President, he who is the most large and liberal in the tone of his sentiment towards all the interests of all parts of the country; he who most honestly and firmly believes that these interests, though various, are consistent; that they all may well be protected, preserved, and fostered by a wise administration of law under the existing Constitution of the United States; and he who is the most expansive patriot, and wishes well, and equally well, to every part of the country; even he must admit, that, to a great extent, there is a marked division and difference between the plantation States of the South and the masses in the agricultural and manufacturing States of the North. There is a difference growing out of early constitutions, early laws and

* The petition was then read by the Secretary.

Digitized by Google

habits, and resulting in a different description of labor; and, to some extent, with the most liberal sentiments and feelings, every man who is concerned in enacting laws with candor, justice, and intelligence must pay a proper regard to that distinction. The truth is, that in one part of the country labor is a thing more unconnected with capital than in the other. Labor, as an earning principle, or as an element of society working for itself, with its own hopes of gain, enjoyment, and competence, is a different thing from that labor, which, in the other part of the country, attaches to capital, rises and falls with capital, and is in truth a part of capital. Now, Sir, in considering the general effect of the change sought to be brought about, or likely to be brought about, by this bill, upon the employment of men in this country, regard is properly to be paid to this difference which I have mentioned; yet it is, at the same time, true, that there are forms of labor, especially along the sea-coast and along the rivers, in all the Southern States, which are to be injuriously affected by this bill, as much as the labor of any portion of the Middle or Northern States. The artisan in every State has just the same interest at the South as at the North. And this is at the foundation of all our laws, from 1789 downward, which have in view the protection of American labor. The first purpose, the first object, was the full protection of the labor of these artisans. That subject was gone over the other day by my friend from Maryland,* who presented to the consideration of the Senate the first memorial ever sent to Congress on the subject of protection. It was from the city of Baltimore, and it was in 1789. And from that day to this, Baltimore has been more earnest and steady in her attachment to a system of law which she supposed gave encouragement to her artisans, than almost any other city of the Union. I say, Sir, she has been steady and earnest. If she ever falters for a moment, she in a moment resumes her attitude, and pursues her accustomed course.

Now, Sir, taking the mass of men as they exist amongst us, what is it that constitutes their prosperity? Throughout the country, perhaps more especially at the North, from early laws and habits, there is a distribution of all the property accumulat-

* Mr. Johnson.

Digitized by Google

ed in one generation among the whole succession of sons and daughters in the next. Property is everywhere distributed as fast as it is accumulated, and not in more than one case out of a hundred is there an accumulation beyond the earnings of one or two generations. The first consequence of this is a great division of property into small parcels, and a considerable equality in the condition of a great portion of the people. The next consequence is, that, out of the whole mass, there is a very small proportion, hardly worthy of being named, that does not pursue some active business for a living. Who is there that lives on his income? How many, out of millions of prosperous people between this place and the British Provinces, and throughout the North and West, are there who live without being engaged in active business? The number is not worth naming. This is therefore a country of labor. I do not mean manual labor entirely. There is a great deal of that; but I mean some sort of employment that requires personal attention, either of oversight or manual performance; some form of active business. That is the character of our people, and that is the condition of our people. Our destiny is labor. Now, what is the first great cause of prosperity with such a people? Simply, *employment.* Why, we have cheap food and cheap clothing, and there is no sort of doubt that these things are very desirable to all persons of moderate circumstances, and laborers. But they are not the first requisites. The first requisite is that which enables men to buy food and clothing, cheap or dear. And if I were to illustrate my opinions on this subject by example, I should take, of all the instances in the world, the present condition of Ireland.

I am not, Mr. President, about to prescribe acts of legislation for Ireland, or principles to the Parliament of Great Britain for the government of Ireland. I am not about to suggest any remedy for the bad state of things which exists in that country; but what that state of things is, and what has produced it, are as plain and visible to my view as a turnpike-road; and I confess that I am astonished that learned and intelligent men have been brought up under certain notions or systems which appear to have so turned their eyes from the true view of the case, that they have been unable to solve the Irish problem. Well, now, what is it? Ireland is an over-peopled country, it is said. It has eight and a half millions of people on an area of thirty-one

Digitized by Google

thousand eight hundred square miles. It is, then, a very dense population; perhaps a thicker population, upon the whole, than England. But why are the people of Ireland not prosperous, contented, and happy? We hear of a potato panic, and a population in Ireland distressed by the high price of potatoes. Why, Sir, the price of potatoes in this city is three times the price of potatoes in Dublin; and at this moment potatoes are twice as dear throughout the United States as throughout Ireland. There are potatoes enough, or food of other kinds, but the people are not able to buy them. And why? That is the stringent question. Why cannot the people of Ireland buy potatoes, or other food? The answer to this question solves the Irish case; and that answer is simply this, the people have not employment. They cannot obtain wages. They cannot earn money. The sum of their social misery lies in these few words. There is no adequate demand for labor. One half, or less than one half, of all the strong and healthy laborers of Ireland are quite enough to fulfil all demand and occupy all employments. Does not this admitted fact explain the whole case? If but half the laborers are employed, or the whole employed but half the time, or, in whatever form of division it be stated, if the result is that there is, in so thickly peopled a country, only half enough of employment for labor and industry, who need be surprised to find poverty and want the consequence? And who can be surprised, then, that other evils, not less to be lamented, should also be found to exist among a people of warm temperament and social habits and tendencies? It would be strange if all these results should not happen.

But, then, this only advances the inquiry to the real question which is, *Why* are the laboring people of Ireland so destitute of useful and profitable employment? This is a question of the deepest interest to those who are charged with the duty of remedying the evil, if it can be remedied. But it is rather beside any present purpose of mine. It may be said, in general, that Ireland has been unfortunate, as well as badly governed. In the course of two centuries, much the greater part of the soil of Ireland, generally supposed to be as much as nine tenths, has been forfeited to the crown; and by the crown given or sold to persons in England, the heads of opulent families, or others. These new English proprietors are known as absentee landlords. They

Digitized by Google

own a vast portion of the island. The absentee landlord is not a man who has grown up in Ireland, and has gone over to England to spend his income. He may be a man who never saw Ireland in his life. I have heard of families no member of which had visited its Irish estates for half a century, the lands being all the time under "rack-rent," in the hands of "middle-men," and all pressing the peasantry and labor to the dust.

There is a strange idea, at least it seems strange to me, which most respectable men entertain on this subject of Ireland. Mr. McCulloch, so highly distinguished an authority, for example, will insist upon it that there is no evil in Irish absenteeism. He proceeds on the theory, which, he says, admits of no exception, that it is best for a man to buy where he can buy cheapest. Well, that is undoubtedly so, if he have the means of buying. If Irish absenteeism did not diminish the employment of the people of Ireland, and so diminish their means of buying, the argument would hold. But who does not see, that, if the landlord lived in Ireland, consuming for his family and retainers the products of Ireland, it would augment the employment of Ireland? It seems clear to me that residence would not only give general countenance and encouragement to the laboring classes, and benefit both landlord and tenant, by dispensing with the services of middle-men, but that it would also do positive good by producing new demands for labor. From early times the English government has discouraged, in Ireland, every sort of manufacture, except the linen manufacture in the North. It has, on the other hand, encouraged agriculture. It has given bounties on wheat exported. The consequence has come to be this, that the surface of Ireland is cut up into so many tenements and holdings, that every man's labor is confined to such a small quantity of land, that there is not half employment for labor, and the lands are cultivated miserably after all. Mr. McCulloch says that four fifths of the labor of Ireland is laid out upon the land. There is no other source of employment or occupation. This land, being under a "rack-rent," is frequently in little patches, sometimes of not more than a quarter of an acre, merely to raise potatoes, the cheapest kind of food. This is the reason why labor is nothing, and can produce nothing but mere physical living, until the system shall be entirely changed. This constitutes the great difference between the state of things

Digitized by Google

in Europe and America. In Europe the question is, how men can live. With us the question is, how well they can live. Can they live on wholesome food, in commodious and comfortable dwellings? Can they be well clothed, and be able to educate their children? Such questions do not arise to the political economists of Europe. When reasoning on such cases as that of Ireland, the question with them is, how physical being can be kept from death. That is all.

Sir, if I were not overwhelmed with topics, and if I were not conscious of having already occupied the time of the Senate quite too long, I would turn your attention to the contrasts, produced by the very causes which we are now considering, between Ireland and Scotland. The population of Ireland, as I have said, is eight millions and a half, on an area of thirty-one thousand eight hundred square miles. Scotland has a population of less than three millions, and an area of twenty-six thousand square miles, only one third of which is arable.

But, nevertheless, the shipping tonnage of Scotland is four hundred and twenty-nine thousand tons, employing twenty-eight thousand men; while that of Ireland is only one hundred and forty thousand, employing eleven or twelve thousand men. With regard to the agriculture of Scotland, though her climate is not so good, nor her soil so rich, as that of Ireland, yet Scotland is a wheat-growing country, and the prices are high, and all agricultural business active. How has this come about? This great reformation, it is said, has been accomplished within sixty or seventy years; and respectable authorities say that the growth of the manufacturing cities of Glasgow, Paisley, Edinburgh, and the rest, by furnishing a market for the immediate sale of agricultural products, has doubled those products, raised them from a lower to a higher species of production, and changed the whole face of the country. I will not pursue this illustration further. It is enough to say, that Scotland has commerce, manufactures, and a variety of employments for labor. In Ireland there is little of commerce and little of manufactures, four fifths of the whole labor of the country being bestowed on the land. These facts are enough to show why Scotland is the Scotland which we find her, and Ireland the Ireland which we find her.

Now, Sir, no man can deny that the course of things in this

Digitized by Google

country, for the last twenty or thirty years, has had a wonderful effect in producing a variety of employments. How much employment has been furnished by the canals and railroads, in addition to the great amount of labor, not only in the factories, rendered so odious in some quarters by calling them monopolies and close corporations, but in the workshops, in the warehouses, on the sea and on the land, and in every department of business! There is a great and general activity, and a great variety in the employments of men amongst us; and that is just exactly what our condition ought to be.

The interest of every laboring community requires diversity of occupations, pursuits, and objects of industry. The more that diversity is multiplied or extended, the better. To diversify employment is to increase employment, and to enhance wages. And, Sir, take this great truth; place it on the title-page of every book of political economy intended for the use of the United States; put it in every Farmer's Almanac; let it be the heading of the column in every Mechanic's Magazine; proclaim it everywhere, and make it a proverb, that *where there is work for the hands of men, there will be work for their teeth.* Where there is employment, there will be bread. It is a great blessing to the poor to have cheap food; but greater than that, prior to that, and of still higher value, is the blessing of being able to buy food by honest and respectable employment. Employment feeds, and clothes, and instructs. Employment gives health, sobriety, and morals. Constant employment and well-paid labor produce, in a country like ours, general prosperity, content, and cheerfulness. Thus happy have we seen the country. Thus happy may we long continue to see it.

And now, Sir, with a very few words addressed to particular interests, I shall relieve the Senate. It has appeared to me particularly strange that our friends from the grain-growing States of the Northwest do not take a different view from that which they now entertain of their ultimate, permanent interest. They are grain-growers. They entertain the hope, especially since the repeal of the British corn laws, that they shall be able to produce wheat to a still larger extent, and obtain for their commodity a commensurate price abroad. For myself, I am fully of opinion that there will be a great disappointment in this respect. I do admit, for I have always believed it, that, with the British

Digitized by Google

ports open to the admission of American Indian corn, or maize, there will be a great deal of it sent to Europe, because of the cheapness of the article, and because, when it comes to be known, it will be, I think, well received amongst the laboring classes. But it seems to me that a few facts may be enough to satisfy us that there cannot be a vast augmentation of Western and Southwestern exportations of wheat, on account of any new demand in Europe. In the first place, our agricultural products have done little more than to keep pace with the increase of our own population. In the next place, the agricultural product of England about keeps pace with her augmenting population, from year to year. And in the third place, if we refer to the list of prices, we shall find that wheat is at this moment, after all we have heard of panics and fears of panics, twenty per cent. lower than in former years; and I see by Mr. Brown's price-current of the 3d of this month, that prime flour was $5.28 per barrel in Liverpool, or, rather, yielded that return to the exporter from the United States. It does appear to me, Sir, that gentlemen who live on these fertile lands of the West, among the most prosperous and most favored communities, would do exceedingly well to consider whether, in fact, they gain any thing by a supposed augmentation of exportations, whether they profit any thing by an extension of the market abroad, whilst they diminish the demand at home. If, by an importation of British manufactures, we encourage the production of the articles manufactured in Europe rather than in America, and bringing the goods here to the United States, is that not certain to diminish the consumption at home of agricultural products, by diminishing the number of consumers? So that, after all, it comes to this, whether it is better for an agriculturist to have a home market than to have a foreign market!

Well, Sir, allow me to say a word on this subject to gentlemen of some of the Southern States. They will allow me at least to give them tables and calculations. I will not undertake to instruct their reason, but wish to draw their attention to facts. The State of Massachusetts is a great grain-purchasing State. I have here a table of the quantities of grain and some other articles purchased by and consumed in Massachusetts in one year, and it strikes me to be worthy of attention.

Digitized by Google

Flour, 630,000 bbls at $5.50 per bbl.,	$3,465,000
Corn and other grains, 3,100,000 bushels, at 54c.,	1,674,000
Coal, 180,000 tons, at $5.75 per ton,	1,035,000
Wool, 7,200,000 lbs., at 33c. per lb.,	2,376,000
Lumber of all kinds,	4,100,000
Lead,	1,300,000
Beef, pork. bacon, and lard,	3,000,000
	$16,950,000

The corn comes chiefly from the eastern shore of Virginia, North Carolina, and Maryland. Where else can these States expect to find a market like this?

Now, Sir, what is the advantage to these corn-growing States of turning our people, the consumers of these articles, out of their workshops, and making agricultural producers of them also? This is a strange policy; where men have already more agricultural products than they can find a market for, to increase the product! On the other hand, where there are more mouths to feed than can be supplied, to increase the number of mouths!

The Northwestern States are destined to be manufacturing States. They have iron and coal. They have a people of laborious habits. They have already capital enough to begin works such as belong to new States and new communities; and when the time comes, and it cannot but come soon, they will see their true interest to be, to feed the Northern and Eastern manufacturers, as far as they may require it, and in the mean time begin to vary their own occupations, by having classes of men amongst them who are not of the now universal agricultural population. The sooner they begin this work the better; and begin it they will, because they are an intelligent and active people, and cannot fail to see in what direction their true interest lies.

Sir, it does not become me to do more than suggest in what the interest of other parts of the country appears to me to consist. Men more competent to judge will decide, and I do not wish to exempt them from an exercise of their judgment. But now, in regard to this manufacture of cotton, I said the other day that I should not take up the New England case. She would be injured, injured to a certain extent, unquestionably; but she would not be injured so much as the new establishments of the South. It appears to me the plainest proposition

Digitized by Google

in the world, that there is nothing which the whole South can so profitably turn its attention to as the manufacture of these coarse cotton fabrics. The South might soon come to undersell New England altogether, because it is a fabric in the value of which the raw material is the most important element. As labor, therefore, forms but a small portion of the article produced in its manufactured state, it requires less capital for machinery and expensive establishments. The raw material being the principal element composing the value gives, of course, an advantage to those who raise the raw material, and who manufacture it just where it is produced. Now I must say, that, at the exhibition here last month or the month before, nothing appeared to me better done than some of these cheap cotton fabrics from Virginia, North Carolina, and Georgia; and I believe, as strongly as I may venture to believe any thing against the opinion of men of more local knowledge, that these manufactures will succeed and prosper, if we let them alone, in the Southern States. And I wish them to prosper. They have arisen in a desire on the part of the Southern people to clothe themselves and their people against New England competition. I conceive it to be for the interest of every community to produce its own clothing; and it strikes me that the effort on the part of the South ought to be encouraged.

But it is time that I relieve the Senate from this discussion. I certainly feel the momentous importance of the subject. I feel that, in the course of my public life, I have never had a more responsible duty to perform, and certainly I never looked forward with more interest to the consequences. If the present system of things be deranged, no man can tell where that derangement is to stop, or what are to be the ultimate results. This, Sir, is a proceeding in which we cannot see the end from the beginning. With respect to the great question of the revenue, I hold that the responsibility of providing revenue for the treasury rests with Congress. I hold that we are not at liberty to devolve that responsibility upon the executive government; and I would ask the administration itself, with all respect, if, now that there seems less prospect than we had hoped of an early termination of this war, if now, within three or four months of the commencement of the next session of Congress, if now, with the tried system which we are sure of for the pro-

Digitized by Google

duction of adequate revenue, so far as we may expect revenue at all from duties and customs, it would not feel safer itself, after the rejection of this bill, than if it should pass?

Sir, I beseech gentlemen to pause. If I were a friend of the administration, and I do not mean to call myself its enemy, for I have no unfriendly feeling to it, I would beseech it not to make this leap in the dark, in the early part of its career, unnecessarily, in the midst of a war, a war of which no man can see the end, and of which no man can now reckon the expense. I would beseech it to stand firm on established ground, on the system on which our revenue now stands; and to lay aside all propositions for extensive and elementary change.

Having said this, I have discharged my duty. I leave it to the judgment of the Senate. I am not to be seduced, on the one hand, by any disposition to embarrass the administration. I certainly feel none; I hope I have manifested none; and, on the other hand, I am not to be deterred by clamor in the press and elsewhere against those who conscientiously, in matters of the highest interest, fulfil their duty. And, Sir, though a most respectable member of this Senate has been made the object of unmeasured opprobrium, because, on a great question connected with the credit and honor of the government and its revenues in time of war, he could not bring himself to think with the majority of his friends, yet even the consequences which have fallen upon him shall not deter me from the fearless discharge of my duty.

I indicated, at the commencement of my speech, that I should conclude it with a motion to postpone the consideration of this bill to the next session of Congress. Upon reflection, I deem it proper to say, that I have so far changed that purpose as that I shall venture upon one amendment, to see whether a disposition exists in the Senate to take this bill exactly as it is, or whether, in the particular I shall mention, it ought not, in the judgment of the Senate, to be changed. It is that extraordinary provision to which I alluded on Saturday, by which, in cases of undervaluation with intention to defraud, the goods are to be seized and sold, and the importer to be paid the value of the goods as rated in his invoice, and five per cent. over. I now move that that provision be struck out.*

* This motion prevailed.

Digitized by Google

The Tariff*

After the conclusion of the foregoing argument, and some further discussion, Mr. Clayton submitted the following resolution, which passed the Senate: —

"*Resolved*, That the bill be committed to the Committee on Finance, with instructions to remove the new duties imposed by said bill, in all cases, where any foreign raw material is taxed to the prejudice of any mechanic or manufacturer, so that no other or higher duty shall be collected on any such raw material than is provided by the act of the 30th of August, 1842: and further, so to regulate all the duties imposed by this bill, as to raise a revenue sufficient for the exigencies of the country."

On the following day (28th July), Mr. Lewis, the chairman of the committee, reported back the bill without alteration, and moved that the committee be discharged from the further consideration of the instructions contained in Mr. Clayton's resolution.

A discussion arose on this motion, in the course of which Mr. Webster spoke as follows.

The question now before the Senate is in one respect a test question, as it has been described by the honorable member from Missouri;† not exactly in the light in which he views it, or in the sense in which he wishes to be understood, but in quite a different sense, in another aspect altogether. We are here, Sir, calling ourselves every day a democratic Congress, and the majority of the body is said to be about to pass a great democratic measure. I suppose, if any meaning is attached to these terms, it is that this is a measure favorable to the masses, favorable to the people, preferring the interests of the

* Remarks in the Senate of the United States, on the 28th of July, 1846.
† Mr. Benton.

Digitized by Google

masses to the interests of a few, preferring the interests of the great body of the people to those who may be called the possessors of a large amount of wealth. Well, Sir, what sort of a bill does the question now about to be taken show that this "great democratic measure" is? or what sort of a measure is this popular democratic bill? It purports to be an "act reducing the duty on imports, and for other purposes." The title would not describe the bill at all, if it did not indicate that there were other purposes besides the mere reduction of duties; and one of those other purposes is to enhance duties. The true interpretation of the bill, therefore, is, that it is an act for reducing certain duties and enhancing certain other duties on articles of importation.

Now, Sir, let us see whether this is such a bill as is pretended, a bill in favor of the masses, in favor of the people! Just look at the question now submitted to the Senate! This bill does reduce duties, but on what? Why, there may be some articles on which the duties are reduced for the benefit of the middling classes; but the great reduction of duties is on such articles as those of which I read to you yesterday a list from the letter of Mr. Nichol. You reduce the duty on spirits of all kinds to the great extent which I mentioned yesterday. You reduce the duty on spices to the great extent which I mentioned yesterday. You reduce the duty on imported tropical fruits and other fruits. You reduce the duty on ready-made clothing. You reduce the duty on rich and expensive carpets. You reduce the duty on rich cut-glass. You reduce every one of these duties, and you saw that this reduction keeps out of the treasury more than the whole of the duty laid upon certain other articles. But these are your reductions, your main reductions. They are all on articles of luxury, of extreme luxury; spirits, spices, silks, costly carpets, rich cut-glass, ready-made clothing; articles which none of the middling classes are interested in, or in the habit of buying or using. Now it is proposed to see whether you will or will not, by the instructions to your committee, continue the practice of freeing the raw material, upon which all the manufacturing and laboring people of the country earn a living, when they get it. That question is now distinctly put to you, and put to this Senate. On the raw material, which is to come here and furnish employment and occupation

Digitized by Google

to the manufacturers and artisans of the country, you have raised the duty. Perhaps on all these raw materials, but certainly on many of them, as I showed yesterday, you have raised the duty above the standard of that tariff which you say is an obnoxious Whig measure, and for the reduction of whose duties you stand pledged. Now you have been asked to send the bill to your committee, with instructions, in every case where the duty on the raw material, as proposed by this bill, exceeds the duty on the same raw material imposed by the Whig tariff of 1842, to take it off, and you won't do it; you won't do it! No. You indulge in the luxury of taxing the poor man and the laborer! That is the whole tendency, the whole character, the whole effect, of the bill. One may see everywhere in it the desire to revel in the delight of taking away men's employment. That is the character of this bill. And this is the question now before the Senate.

Sir, I had hoped that the honorable gentleman* who spoke yesterday with so much effect on the necessity of protecting the mechanics and laborers, who dwelt with so much emphasis on the very objectionable feature of taxing the raw material, I had hoped that he would have held to his purpose. I say that this bill holds a language that cannot be mistaken, that cannot and will not be misunderstood. It is not a bill for the people. It is not a bill for the masses. It is not a bill to add to the comforts of those in middle life, or of the poor. It is not a bill for employment. It is a bill for the relief of the highest and most luxurious classes of the country, and a bill imposing onerous duties on the great industrious masses, and for taking away the means of living from labor everywhere throughout the land. It cannot be disguised. You cannot mask its features. No man is so blind as not to see what this bill is; and the people will not be so callous, I trust, as not to feel it. In this sense, and in this view, the question now about to be put is a test question. We shall have the voice of the Senate upon it. We shall know who is for raising the duty on various articles to the prejudice, and in many cases to the ruin, of our own countrymen, working here at home as artisans and handicraftsmen, and who is at the same time for reducing the duties on the highest luxuries. That is

* Mr. Benton.

Digitized by Google

the test, and no man can escape it. No man will escape that test.

Now I shall vote to keep this proposition in the hands of the committee. The committee has not tried whether it can obey the instructions of the Senate. Last night they were instructed to do their duty, and at a very early hour this morning they say they have made up their mind. Was ever the like heard before? The chairman asks to be discharged. I don't believe they were convened on this matter for ten minutes. I doubt whether they have been together at all. What is the difficulty of ascertaining the amount of duty on the general list of raw materials, and reducing the rates of this bill to those of the act of 1842? There is not a gentleman who could not do it in two hours. If they had been disposed, the committee could have obeyed your instructions before meridian this day. I am rather inclined to think, Sir, that they did not fatigue themselves by examining this matter. I am rather inclined to think it was their opinion that the best way was to take a short cut and move to be discharged, in the hope that some occurrence or other would enable them to carry that motion. I do not believe that they have opened a book, or looked at any list of raw materials. I am disposed to think, Mr. President, they are as *raw* on the whole subject as they were yesterday.

I repeat, Sir, that this bill has a face and front, so that, when it is held up to the country, no man need write at the bottom of it whether it is a democratic bill or an aristocratic bill. When it shows to all the laboring portions of this community, that their daily labor and daily bread are directly interfered with; that, wherever it can be done, a tax is laid upon the raw materials upon which they work and earn their living; when they see at the same time, in the next line, the duties on those high classes of luxuries, spirits, silks, expensive carpets, rich cut-glass, and the rest of them, are reduced, will they ask any body to tell them what that bill is? Will they need any one to give a name to it? Sir, it names itself. It has the face and front of an aristocratic bill, oppressive of the poor and working man; and in every respect it corresponds to its face and front.

Some remarks were now made by Mr. McDuffie of South Carolina, in which reference was had to resolutions adopted in Boston in 1820, against the tariff bill commonly known as "Mr. Baldwin's bill," which

Digitized by Google

resolutions, at the request of Mr. McDuffie, were read at the Secretary's table. After some explanations between Mr. Webster and Mr. McDuffie, Mr. Webster continued as follows: —

A word, Sir, about these resolutions of 1820. I remember the state of things very well. The commercial people of New England in 1820 were in a considerable state of alarm. They had business all over the world. They thought that a policy had been begun at Washington which would interfere with their commerce, and it was of that they were afraid. How was this great evil, of which they had become afraid, fastened upon them? By the *minimums* introduced into the tariff law of 1816, by South Carolina, in order to cut off the trade of the United States with India. The *minimum* principle, so odious now, was moved in Congress by a most respectable and distinguished member from South Carolina, not now living.* It was carried by South Carolina, against every vote of Massachusetts. I do not think there was a vote of Massachusetts, not one, in favor of the measure. It is not, then, because the *minimum* principle is bad in itself, that it is now opposed. Why, Sir, *minimum* is now spoken of here as if it were a Pawnee Indian, or one of the Camanches, that eats up and destroys every body and every thing.

Mr. McDuffie. So it does.

Well, bad as it is, it was introduced by South Carolina, against every vote of Massachusetts.

Well, then, in 1820, an eminent member of Congress from Pennsylvania introduced a high protective tariff, bearing, among certain other things, especially upon iron. I refer to Mr. Baldwin, afterwards judge of the Supreme Court. That tariff went to protect every thing out of New England. Thus was New England between the upper and nether mill-stone, between the South Carolina tariff, with its *minimums* on cottons, which cut off the India trade, and the Pennsylvania tariff, which looked mainly to that State. Is it to be wondered at that we were alarmed?

I wish the gentleman had dwelt a little more, in his address to the chair, on the effect of this bill upon the iron and coal of Pennsylvania. But I agree that, whether it be owing to change

* Mr. Lowndes.

Digitized by Google

of opinion, wrought by circumstances, by a change in the condition of things in the country, or otherwise, I agree, that, in the present state of things, which has existed since 1824, there is no going back from that principle of protection which was then established. The law of 1824 did not pass with the consent of Massachusetts. It received but one vote, I think, from the entire delegation from Massachusetts, in both Houses of Congress. As I said the other day, New England had been addicted to commerce. But she supposed the time had come when she must conform herself to the law of the country, and invest her capital, for her labor was her capital, and employ her industry, in such pursuits as the country had promised to protect and uphold. Now, Sir, if there be any thing inconsistent in that, I admit the inconsistency. I still agree to every word of the resolution of Faneuil Hall of 1820. But in the present state of things there is an essential importance, an absolute moral necessity, for maintaining those habits, pursuits, businesses, and employments into which men entered twenty-two years ago, upon the faith of the declared sentiments and policy of a majority of both houses of Congress.

Now, Sir, in regard to the assessment of duties, the great measure proposed by this bill, I confine myself to the substance of the instructions given to the committee yesterday, and from which it is now proposed to relieve them, that is, raw material. The honorable member says that in most cases this imposition is small, only five per cent. Well, what is that? Why, five per cent. is enough to put an end to a great many of the employments of the United States. If they had not competition from abroad, it would be a different thing. But when you tax the raw material and admit the manufactured article free, or at a lower rate of duty, if any body will go into the manufacture under these circumstances, it will very soon be found that the tax on the raw material of five per cent., which the honorable member from South Carolina considers a small matter, a very small matter, is enough to decide the competition between the American and English manufacturer. England lets in the commodity free. She is full of skill and capital. Money can be got at a much lower rate of interest than here, and labor at less than half price. How, then, can you expect the American manufacturer to be able to compete with England, when, with all these disadvanta-

Digitized by Google

ges against him, you tax his raw material and admit the commodities of his rival at a low rate of duty? How is he to contend, not only against cheaper capital and cheaper labor, but also against a tax on his raw material? He cannot do it. Now the gentleman says, and he has a right to the opinion, that the laboring man will be benefited by the cheaper price of such cotton as he wears. He stated the other day that he thought there would be an importation of ten millions of that sort of cotton. If that should happen, there would be a very singular sight exhibited upon the ocean. For the statistical tables show that, in the course of last year, the United States exported, carried out of the country, and sold, four and a half millions of the same sort of cotton.

Mr. McDuffie. The coarse article?

Essentially the same. The article costing seven cents a yard in Boston. Now if an article costing six or seven cents in Boston, like the article expected to be imported, is exported in such quantities, is there any reasonable foundation for the opinion that ten millions of the same goods would be imported? This is a matter of opinion. I will not say that the expectation is groundless, because I will always treat the honorable member's opinions with the highest degree of respect. But it appears to me perfectly plain, that the descriptions of articles alluded to by him, since they are exported in such quantities, cannot be expected to be imported to such an extent as he seems inclined to anticipate.

Sir, the honorable member has expressed the opinion, that the farmers, by which term I suppose he means the persons employed in agriculture at the North, (we usually distinguish between farmers and planters,) will be greatly benefited by the bill. He supposes that they are now taxed for the benefit of their neighbors, the mechanics and manufacturers. Now, Sir, the question being asked, the answer will be decisive, Were prices ever lower? Were they ever lower to the farmers than they are now? Is it a well-founded opinion, that manufactured articles could be produced, and brought here from England, below the present rates in this country? The Senator stated a very strong case apparently, the case of the daughter of an Illinois farmer, who was clad in cotton cloth not worth over four or five cents a yard.

Digitized by Google

And why? And why, Sir? That only advances the discussion one stage. The evident answer to that question is, because there was no market of consumption for the grain on her father's farm. That is the proximate cause. Flour is now two dollars a barrel in Missouri; and under the repeal of the corn laws we have reason to believe that good flour at St. Louis will, as a correspondent in that part of the world writes me, not be above a dollar and a half a barrel. Well, if the gentleman is right in supposing that these agricultural products will rise up to a great price in consequence of any recently occurring event, he may hold very well to the other opinion, that the introduction of English commodities at such a rate of duties as will bring them in here in great quantities should be encouraged. I can only say in respect to this, that in my judgment it is a great fallacy. I do not doubt that the repeal of the corn laws may have a beneficial effect in extending liberal sentiments and a liberal spirit amongst nations. But that it is to relieve the American market of its surplus grain, I do not believe. The people of England will not consume more bread. England is annually increasing her agricultural products. Agriculture is improving. The English landlords are improving their stock with a profusion of expenditure almost incredible in this country. Last year one of these proprietors expended a hundred thousand dollars in draining his estate in order to increase the product of wheat. If you look, Sir, to Pennsylvania, to New York, to Maryland, as well as the New England States, you will find that the farmer looks for remunerating profit in the sale of his products among the mechanics and manufacturers of the towns and villages. Look to the statistics, and you will see how much of agriculture goes with every product of manufacture in the United States. Of that, England herself is an example. An honorable member from Pennsylvania of the other house has gone into that with perfect accuracy and precision, so that I need not dwell on it. I will not extend these remarks. But with regard to my proposition, you must submit to a great loss of revenue on the luxuries I have mentioned, at the same time that you reduce the wages of labor by taxing the raw material. "Look here upon this picture, and on this," and let the country decide.

Digitized by Google

The Sub-Treasury*

Mr. President, — I shall occupy the attention of the Senate but a few moments on the measure now before it. Before, however, I proceed to do this, I feel it a duty to call the attention of the honorable Senator from Alabama† and the other members of the Senate to what I see stated in the official journal of the last evening in regard to another matter which has lately received the action of this body. And I do so in order to prevent an erroneous impression from going abroad as a matter of fact. I find in "The Union" of last evening the following paragraph: —

"Much has been said of false invoices, as if the importer had only to falsify his invoice, and so pay under the *ad valorem* system as little duty as he chose. The fact is, that the value of the goods taxed is to be settled, not by the importer's invoice, but by competent and skilful appraisers. They are to appraise the goods at their actual market value *in our ports*, in New York or Philadelphia; not at Canton or Manchester. In this point of view, the appraisers, whose duty it will be to understand the state of our markets, will give only such regard to the importer's invoice as it may seem entitled to. They may, if they please, take the invoice as *primâ facie* evidence of the actual cost of the goods, and so approximately of their actual worth in our markets. But it is only *primâ facie* evidence. The appraisers must value the goods upon their own judgment, after all. Yet the importer is obliged to present an invoice; and one provision of the new law goes far towards making this

* Remarks in the Senate of the United States, on the 1st of August, 1846, on the Third Reading of the Bill "to provide for the better Organization of the Treasury, and for the Collection, Safe-keeping, Transfer, and Disbursement of the Public Revenue."

† Mr. Lewis.

Digitized by Google

invoice a true exponent of the value of the goods; for the law provides, that if the value placed upon the goods by the importer, on entering them at the custom-house, is less by ten per cent. than the value at which they are subsequently appraised, then twenty per cent. *additional* duty upon the appraised value is to be levied and collected."

Now, a more enormous error than this was never put forth to the world. The law of the land, as it now stands, requires that the value fixed upon goods by the United States appraisers shall be the value, not here, but at the place of exportation. This is a fact which all business men well know, and which the chairman of the Committee on Finance will himself confirm.

Mr. Lewis here nodded assent.

Those who indulge themselves so much in remarks (not always very courteous) on the course of others, should be cautious first to understand subjects themselves. Here is an assertion of an alleged fact, while the very opposite is true.

But, not to detain the Senate longer on a matter of this sort, I will make an observation or two on the bill now pending, and, as I presume, soon to become a law.

I have always been opposed to this system of a "constitutional treasury," or "independent treasury," or "sub-treasury," which is the old name for it. The evils of such a system are insurmountable, and of various kinds. But I shall now briefly point out what I consider its evil consequences on the operations of the government, without adverting to its effect on the general business of the country. I shall preface what I have to say with a very short history of this scheme. Owing to an unhappy controversy between a former President of the Union* and the late Bank of the United States, the custody of the national funds was withdrawn from the national bank and committed to certain selected State banks. As soon as the money was deposited in their vaults, the then Secretary of the Treasury† instructed the directors of those banks to be very free and liberal in making discounts to merchants on the money in their vaults. The banks complied with this order, and the result was, that in 1837 they generally stopped payment. In consequence of this state of things, President Van Buren called a special session of Con

* General Jackson. † Mr. Taney.

Digitized by Google

gress in September, 1837, and this project of the independent treasury was then brought forward for the first time. It failed, however, at that time, and again at a subsequent Congress; but in 1840 it passed into a law. Such, however, was found to be its practical working, that it was not suffered to continue in operation a year, but was repealed in 1841.

Now, there might have been at least some plausible reason for resorting to a new system in the keeping of the public treasure in 1837, for the national bank had ceased to exist, and the State banks had all broken down. The public money must be kept somewhere, and the government thereupon resolved to try "the untried experiment" of keeping the public funds in vaults of its own. For the last five years we have been under a system of which this formed no part. Now the first question which I wish to put to gentlemen who advocate this bill is this: Do they not all admit that the public moneys are now safe? Do they harbor any fear that there will be public defalcations? Is there any apprehension of the loss of the public treasure if this bill shall not be adopted? For my own part, I think the public deposits are perfectly safe where they are. The banks to which they are intrusted have given us the most ample security, and that security for the most part is in stocks of the United States. If our own stock is adequate security, then the banks are in fact for the most part creditors of the United States, instead of being its debtors. They hold more of our stock than they do of our funds. Under such circumstances, none can say that the public money is unsafe, and no danger, therefore, will be incurred in that respect from the postponement, or even the rejection, of this bill. The banks have acted with very great prudence and propriety; they have not indulged in any excess of discounts; but, feeling the responsibility under which they were placed, they have proceeded with discretion, and have ever been ready to accommodate the government in any manner not inconsistent with their duty to the stockholders and to the country. If gentlemen admit that the condition of the public money is at present as safe as we can make it, then what is the benefit which they seek from this bill, or where is the necessity of passing it?

Considering it as a measure of the administration, it appears to me that it is likely, instead of proving of any benefit to the

Digitized by Google

government, only to arrest or thwart the operations of the treasury. To me it is most clear that the bill will become, in its practical effect, a clog on the administration. I refer gentlemen to the twenty-first and twenty-second sections of the bill as it now stands. Let them examine the probable working of these portions of the law, and then say whether the bill will not prove, not only of no assistance to the fiscal operation of the government, but, on the contrary, a great embarrassment.

I can readily understand that, if the amendments which were proposed to the twenty-first section had prevailed, much facility might have resulted to the treasury from the use of treasury drafts, placed in the hands of disbursing officers to be paid out to the creditors of the government. But the Senate, by a large majority, rejected those amendments. In its present state, the bill subtracts from the facility which would otherwise have attended the operation of these treasury drafts. As the law now stands, if a man comes to the treasury with a demand for money, he gets a draft to the desired amount, which he indorses, and which is then a transferable security, and may pass through as many hands as may be necessary or convenient to the holders, and may be kept out just as long as they please. There is an unrestricted circulation of this treasury draft, and it is transferable without any further indorsement. But here, under this bill, it is made the duty of the Secretary of the Treasury to hasten the presentation of all such drafts, and to prescribe a time within which they shall be presented and paid. If the place of payment be near at hand, then they are to be presented immediately, and not to be kept or left outstanding. The amendment made here is just the reverse of the bill. The House bill goes to restrain the circulation of the drafts; our proposition gives it greater facilities. The purposes of the two are in open hostility with each other. It is clear that, if the bill shall stand as it now is, instead of being of any use to the treasury, it will operate as a downright restraint on facilities which it would otherwise enjoy.

Confining my remarks altogether to the character of this bill, considered as an administration measure, I proceed, on the other hand, to consider what will be the disadvantages to the government from its becoming a law. I go on the supposition that the bill is to be executed, not evaded; and I say that, if the

Digitized by Google

specie payments which it enjoins are required *bonâ fide*, it will operate as a great embarrassment to the government should it be placed in a condition in which it would be necessary to negotiate a loan. There is authority for a loan now, and the government has its option between such a measure and the issue of treasury-notes. But if this law shall be carried out, no loan will be possible. And why not? Because the law will demand that eight or ten millions of dollars in hard specie shall be withdrawn from active circulation, some four or five millions of it being locked up in government chests and vaults, and some four or five millions more being constantly *in transitu*, as the payments of the government may require. Then, if the government wants a loan, how is it to be got? The practical mode at present pursued is this. Some large banker takes, for example, two millions of the government loan. But this man cannot furnish the cash unless he finds banks who are willing to take the United States stock and advance him a temporary loan upon it, until, to use the business phrase, he shall be able to "place the money"; that is, shall be able to find persons who will take the stock with the view of holding it and receiving interest upon it. This is the mode now pursued. But what will be the condition of the banks who may be asked by him to advance money upon stock after this bill shall have become a law? How can they possibly do it? The sum they agree to advance must be paid in gold and silver, taken on the instant out of their own vaults and carried across the street to be locked up in the vaults of some government depository. If the bullion remained with the banks, and a credit on their books was all that was required, they might do it; but the specie is instantly called for, and is so much deducted from the basis of their circulation. Their customers will not agree to it, their directors will not agree to it, their stockholders will not agree to it. I say, therefore, if this law is not evaded, but is obeyed *bonâ fide*, any negotiation of a government loan must be out of the question. I put that fact to any man acquainted with business, and ask if he can gainsay it.

I do not mean to go at any length into the embarrassments which this bill must inflict on the mercantile community; but there is one so obvious and prominent that I cannot forbear mentioning it, in connection with another bill which we have

Digitized by Google

recently passed. Those who expect an adequate revenue under the new tariff law look of course for largely augmented importations, and they expect that the duties on these importations are to be paid. This bill says they are to be paid in gold and silver; and I ask, Where is the importer to get his money? The ordinary way is to go to a bank, and say to the directors or the president, I have five thousand dollars of duties to pay to-day. The bank, knowing that he is about to enter his goods, and that it will immediately get the money back from the custom-house, makes no difficulty; but if it knew that the money, instead of coming back into its vaults, was to be lugged off in specie and locked up in a government vault, and that so much was to be taken from the basis of its circulation, it would not be quite so ready to accommodate him; and even the apprehension of a difficulty of this kind is, in the matter of credit and advances, more than half as bad as the thing itself. The apprehended evil creates as great an unwillingness in the banks to advance as the evil itself.

I agree, indeed, that the severity of the pressure will be mitigated by the use of treasury-notes, so long as those treasury-notes remain in circulation; and therefore I say that gentlemen may be assured of one thing: if this sub-treasury system is to be adopted, the system of treasury-notes will be coeval with it in duration. As long as the one stands, the other must be resorted to, for the law would be altogether intolerable without such a relief. And here I say again, what I recently said on the subject of treasury-notes, that I see no reason why treasury-notes should not be issued at once. There seems to prevail an idea at the treasury, that the government should not issue its notes as long as it has a dollar in the treasury, and that they must spend the six millions, or whatever other balance there may be there, before any treasury-note is issued. It was my idea that the government should issue notes while it had money under its keeping, and thereby the government might sustain its credit. But it seems that other notions have prevailed. Now I think that, for the same reason that this bill will create embarrassment in regard to a loan, it will create the same embarrassment in relation to treasury-notes, because it will cast discredit generally upon all securities issued by the government.

And now I will call the attention of the Senate to the condi-

Digitized by Google

tion of things as they at present exist, and as they will be. I suppose the warehousing bill is destined to pass into a law. The new tariff has become a law, and it has reduced the duties to be imposed on foreign goods. Of course the imports for this and for the next quarter will be very limited. Men will either not bring in goods at all now, or only for the purpose of taking them out to get the benefit of the drawback, and not to enter them for payment of duty. The receipts, therefore, must be very small. There is another reason why they will fall below the ordinary amount. There is in the country a large quantity of goods which have been brought in, but not consumed. These will be reëxported for drawback, and stored in some neighboring port until the tariff law goes into effect, and then they will be reimported. All this must create a serious loss to the treasury. After the 1st of December a large amount of warehoused goods will be entered for duty; and as the articles exported for debenture will also be returning, the probable receipts of the quarter commencing on the 1st of January must be very large. Yet, as this is the very time when this law begins to demand that all duties shall be paid in specie, just at the time when the amount of importation is at the highest point in the whole year, this demand for gold and silver will look the importing merchant in the face. Do not gentlemen see how serious an inconvenience must be inflicted by such a concurrence of circumstances? It is plain that the government can get no loan at such a time. It will be as much as the banks can do to stand the call that will be made upon them for specie by their own customers, especially if the importations shall be any thing like what is calculated by the Secretary of the Treasury. The prospect of such a demand, and the knowledge beforehand that it may come, will act as strongly against the possibility of a loan as the fact itself. The certain prospect that their specie will be called for, to be locked up in government vaults even for a short time, will induce the banks to curtail their discounts, and must be productive of very great embarrassment, both public and private.

I say, in all seriousness, that this should be entitled "A bill to embarrass the treasury in the disbursement of the public money." Here will be both the tariff and the sub-treasury coming into practical operation at one time. Is not one of them

Digitized by Google

enough to cope with at once? Then we are under the pressure of a public war, a war of which none can see the end; and it is under these circumstances that we have ventured upon an entire change in the collection of revenue, and adopted a system wholly untried. Is it necessary, on the top of this, to introduce another new and untried system in the disbursement of our revenue? Must we have more experiments? a new system of collection and a new system of disbursement? Is this prudent?

But as I promised when I rose to detain the Senate but for a few minutes, I will do no more than put a question or two to gentlemen on the other side.

Will any man say that the public moneys are now unsafe? Does any man apprehend that they are likely to be lost? [A pause.] Nobody will say so.

I put to gentlemen another question. Is there any gentleman here who will say that he believes this law will give any new facilities to the government? [Mr. W. here paused again.] If there is, I should like to hear his voice. I shall be greatly obliged to him to say so now, and not to answer the interrogatory only by crying "Ay" on the passage of this bill. I greatly fear that I shall not hear any other affirmative reply. I doubt if there is one gentleman who will or can answer either of these questions in the affirmative. On the contrary, I leave it to gentlemen who are connected with the administration, and who, from their position, live in habits of daily intercourse with those who conduct the government, to say whether it is not their own candid opinion that this bill, administration bill though it be, will not prove a help, but rather a hinderance, to them in the administration of our fiscal concerns?

The operation of this law on the commercial community, its strange, un-American character, have been so fully exposed by the honorable Senators from Maine and Connecticut* that I will not now enter on that part of the subject. I frankly confess that I did not expect that this sub-treasury scheme would ever be revived. I had heard of "Polk, Dallas, and the tariff of 1842," but I really never did expect to hear of "Polk, Dallas, and the old dead sub-treasury."

* Mr. Evans and Mr. Huntington.

Digitized by Google

I would move to postpone the further consideration of this bill to the next Congress, but that I do not wish to be voted down. I will therefore simply throw out the suggestion, that it will be for the advantage both of the government and the people that it should be so postponed.

Digitized by Google

The Mexican War*

Mr. President, — If my health had been better, and more time had remained to us, it was my purpose to address the Senate on the bill before us, and also on several topics with which it is connected. This purpose, under existing circumstances, I must necessarily forego. The true origin of the war with Mexico, and the motives and purposes for which it was originally commenced, however ably discussed already, are subjects not yet exhausted. I have been particularly desirous of examining them. I am greatly deceived, Mr. President, if we shall not ere long see facts coming to the light, and circumstances found coinciding and concurring, which will fix on the executive government a more definite and distinct purpose, intended to be effected by the coöperation of others, in bringing on hostilities with Mexico, than has as yet been clearly developed or fully understood.

At present, I should hardly have risen but to lay before the Senate the resolutions of the House of Representatives of Massachusetts, adopted on Thursday last. We have a great deal of commentary and criticism on State resolutions brought here. Those of Michigan particularly have been very sharply and narrowly looked into, to see whether they really mean what they seem to mean. These resolutions of Massachusetts, I hope, are sufficiently distinct and decided. They admit of neither doubt nor cavil, even if doubt or cavil were permissible in such a case.

What the legislature of Massachusetts thinks, it has said,

* Remarks in the Senate of the United States, on the 1st of March, 1847, on the Bill commonly called the "Three Million Bill," by which that sum of money was appropriated for the purpose of discharging any extraordinary expenses which might be incurred in bringing the war to a conclusion.

Digitized by Google

and said plainly and directly. Mr. President, I have not, before any tribunal, tried my ingenuity at what the lawyers call a special demurrer for many years; and I never tried it here in the Senate. In the business of legislation, and especially in considering State resolutions and the proceedings of public assemblies, it is our duty, of course, to understand every thing according to the common meaning of the words used. Of all occasions, these are the last in which one should stick in the bark, or seek for loopholes, or means of escape; or, in the language of an eminent judge of former times, "hitch and hang on pins and particles." We must take the substance fairly, and as it is, and not hesitate about forms and phrases. When public bodies address us, whether we comply with their wishes or not, we are at least bound to understand them as they mean to be understood; to seek for no subterfuges, and to rely on no far-fetched and subtile difficulties or exceptions. All such attempts will be justly regarded only as so many contrivances resorted to in order to get rid of the responsibility of meeting the public voice directly and manfully, and looking our constituents boldly in the face.

Sir, we are in the midst of a war, not waged at home in defence of our soil, but waged a thousand miles off, and in the heart of the territories of another government. Of that war no one yet sees the end, and no one counts the cost. It is not denied that this war is now prosecuted for the acquisition of territory; at least, if any deny it, others admit it, and all know it to be true.

Under these circumstances, and plainly seeing this purpose to exist, seven or eight of the free States, comprising some of the largest, have remonstrated against the prosecution of the war for such a purpose, in language suited to express their meaning. These remonstrances come here with the distinct and precise object of dissuading us from the further prosecution of the war, for the acquisition of territory by conquest. Before territory is actually obtained, and its future character fixed, they beseech us to give up an object so full of danger. One and all, they protest against the extension of slave territory; one and all, they regard it as the solemn duty of the representatives of the free States to take security, in advance, that no more slave States shall be added to the Union. They demand of us this pledge,

Digitized by Google

this assurance, before the purchase-money is paid, or the bargain concluded. And yet, Mr. President, ingenuity has been taxed to its utmost; criticisms both deep and shallow, and hypercriticisms quite incomprehensible, have all been resorted to, in the hope of showing that we do not understand the people; that their resolutions are not what they seem to be; that they do not require any immediate movement or present opposition; that they only look to some distant future, some emergencies yet to arise; that they only refer to a disposition in regard to territory, after it shall have been acquired and settled; and in one instance, I think, it was said that it did not appear that any thing was required of us for fifty years to come.

Mr. President, I understand all these things very differently. Such is not the voice of the free States, and of other States, as I receive it. Their trumpet gives forth no uncertain sound. Its tones are clear and distinct. I understand that a loud and imperative call is made upon us to act now; to take securities now; to make it certain, now, that no more slave States shall ever be added to this Union.

I will read, Sir, the Massachusetts resolutions: —

"*Resolved unanimously*, That the legislature of Massachusetts views the existence of human slavery within the limits of the United States as a great calamity, an immense moral and political evil, which ought to be abolished as soon as that end can be properly and constitutionally attained; and that its extension should be uniformly and earnestly opposed by all good and patriotic men throughout the Union.

"*Resolved unanimously*, That the people of Massachusetts will strenuously resist the annexation of any new territory to this Union, in which the institution of slavery is to be tolerated or established; and the legislature, in behalf of the people of this Commonwealth, do hereby solemnly protest against the acquisition of any additional territory, without an express provision by Congress that there shall be neither slavery nor involuntary servitude in such territory, otherwise than for the punishment of crime."

Sir, is there any possibility of misunderstanding this? Is there any escape from the meaning of this language? And yet they are hardly more explicit than the resolutions of other legislatures, Michigan, New York, Vermont, and all the rest.

The House of Representatives of Massachusetts is, I believe, the most numerous legislative body in the country. On this

Digitized by Google

occasion it was not full; but among those present there was an entire unanimity. For the resolutions there were two hundred and thirty-two votes; against them, none. Not one man stood up to justify the war upon such grounds as those upon which it has been, from day to day, defended here. Massachusetts, without one dissenting voice, and I thank her for it, and am proud of her for it, has denounced the whole object for which our armies are now traversing the plains of Mexico, or about to plunge into the pestilence of her coasts. The people of Massachusetts are as unanimous as the members of their legislature, and so are her representatives here. I have heard no man in the State, in public or in private life, express a different opinion. If any thing is certain, it is certain that the sentiment of the whole North is utterly opposed to the acquisition of territory, to be formed into new slave-holding States, and, as such, admitted into the Union.

But here, Sir, I cannot but pause. I am arrested by occurrences of this night, which, I confess, fill me with alarm. They are ominous, portentous. Votes which have been just passed by majorities here cannot fail to awaken public attention. Every patriotic American, every man who wishes to preserve the Constitution, ought to ponder them well. I heard, Sir, the honorable member from New York,* and with a great part of his remarks I agreed; I thought they must lead to some useful result. But then what does he come to, after all? He is for acquiring territory under the Wilmot Proviso; but, at any rate, he is for acquiring territory. He will not vote against all territory to form new States, though he is willing to say they ought not to be slave States. Other gentlemen of his party from the Northern and Eastern States vote in the same way, and with the same view. This is called "the policy of the Northern Democracy." I so denominate the party only because it so denominates itself. A gentleman from South Carolina,† if I understood him rightly, said he wanted no new territory; all he desired was equality, and no exclusion; he wished the South to be saved from any thing derogatory; and yet he does not vote against the acquisition of territory. Nor do other Senators from Southern States. They are therefore, in general, in favor

* Mr. Dix. † Mr. Butler.

Digitized by Google

of new territory and new States, being slave States. This is the policy of the Southern Democracy. Both parties agree, therefore, to carry on the war for territory, though it be not decided now whether the character of newly acquired territory shall be that of freedom or of slavery. This point they are willing to leave for future agitation and future controversy. Gentlemen who are in favor of the Wilmot Proviso are ready, nevertheless, to vote for this bill, though that proviso be struck out. The gentleman from New York is ready to take that course, and his Northern and Eastern friends, who sit round him here in the Senate, are as ready as he is. They all demand acquisition, and maintain the war for that purpose. On the other hand, the other branch of the party votes eagerly and unitedly for territory, the Wilmot Proviso being rejected, because these gentlemen take it for granted that, that proviso being rejected, States formed out of Mexico will necessarily be slave States, and added to this Union as such.

Now, Sir, it has appeared to me from the beginning, that the proposition contained in the amendment which was submitted some days ago by my friend, the honorable member from Georgia,* was the true and the only true policy for us to pursue. That proposition was in these words: —

"*Provided, always*, And it is hereby declared to be the true intent and meaning of Congress in making this appropriation, that the war with Mexico ought not to be prosecuted by this government with any view to the dismemberment of that republic, or to the acquisition by conquest of any portion of her territory; that this government ever desires to maintain and preserve peaceful and friendly relations with all nations; and, particularly with the neighboring republic of Mexico, will always be ready to enter into negotiations, with a view to terminate the present unhappy conflict on terms which shall secure the just rights and preserve inviolate the national honor of the United States and of Mexico; that it is especially desirable, in order to maintain and preserve those amicable relations which ought always to exist between neighboring republics, that the boundary of the State of Texas should be definitively settled, and that provision be made by the republic of Mexico for the prompt and equitable settlement of the just claims of our citizens on that republic."

* Mr. Berrien.

Digitized by Google

This amendment rejects all desire for the dismemberment of Mexico; it rejects acquisition of territory by conquest; it signifies a wish for the restoration of peace, and a readiness on our part to enter into negotiations, and to treat, not only for peace, but also for boundaries and indemnities. This amendment has been rejected, and now I come to the point: Who has rejected it? By whose votes has this amendment, this very evening, been lost? Sir, it has been lost by the votes of the honorable member from New York and his Northern and Eastern friends. It has been voted down by the "Northern Democracy." If this "Northern Democracy" had supported this amendment, it would have prevailed, and we should then have had no new territory at all, and of course no new slave territory; no new States at all, and of course no new slave States. This is certain and indisputable. If the Senate had said what that resolution proposes, the danger would have been over. But these gentlemen would not vote for it. To a man, they voted against it. Every member of the Senate belonging to the Democratic party, in the Northern States, however warmly he might have declared himself against new slave States, yet refused to vote against all territorial acquisition, a measure proposed and offered as a perfect security against more slave States. They are for acquiring territory; they are for more States; and, for the sake of this, they are willing to run the risk of these new States being slave States, and to meet all the convulsions which the discussion of that momentous question may hereafter produce. Sir, if there be wisdom, or prudence, or consistency, or sound policy, or comprehensive foresight in all this, I cannot see it.

The amendment of the honorable member from Georgia was supported by the votes of twenty-four members of the Senate. Twenty-nine members voted against it. Of these twenty-nine, there were six gentlemen representing Northern and Eastern States; viz. one from Maine, one from New Hampshire, one from Connecticut, two from New York, and one from Pennsylvania. If these six members had voted for the resolution, they would have changed the majority, and there would, from that moment, have been no apprehension of new slave territory or new slave States. Against the resolution, also, we heard the voices of five members from the free States in the Northwest; viz. one from Ohio, two from Indiana, one from Michigan, and one from Illinois.

Digitized by Google

So it is evident that, if all the Senators from the free States had voted for this amendment, and against the acquisition of territory, such acquisition would have been denounced, in advance, by nearly two thirds of the whole Senate, and the question of more slave States settled for ever. For, let me say to you, Sir, and to the country, that, whenever this question is settled, it must be settled in the Senate. It might have been settled here this night, and settled finally and for ever.

Mr. President, I arraign no men and no parties. I take no judgment into my own hands. But I present this simple statement of facts and consequences to the country; and ask for it, humbly but most earnestly, the serious consideration of the people. Shall we prosecute this war for the purpose of bringing on a controversy which is likely to shake the government to its centre.

And now, Sir, who are the twenty-four members who supported the amendment of the member from Georgia? They are the Whigs of the Senate, Whigs from the North and the South, the East and the West. In their judgment it is due to the best interests of the country, to its safety, to peace and harmony, and to the well-being of the Constitution, to declare at once, to proclaim now, that we desire no new States, nor territory to form new States out of, as the end of conquest. For one, I enter into this declaration with all my heart. We want no extension of territory, we want no accession of new States. The country is already large enough. I do not speak of any cession which may be made in the establishment of boundaries, or of the acquisition of a port or two on the Pacific, for the benefit of navigation and commerce. But I speak of large territories, obtained by conquest, to form States to be annexed to the Union; and I say I am opposed to such acquisition altogether. I am opposed to the prosecution of the war for any such purposes.

Mr. President, I must be indulged here in a short retrospection. In the present posture of things and of parties, we may well look back upon the past. Within a year or two after Texas had achieved its independence, there were those who already spoke of its annexation to the United States. Against that project I felt it to be my duty to take an early and a decided course. Having occasion to address political friends in the city of New York, in March, 1837, I expressed my sentiments as

Digitized by Google

fully and as strongly as I could. From those opinions I have never swerved. From the first I saw nothing, and have seen nothing, but evil and danger to arise to the country from such annexation. The prudence of Mr. Van Buren stifled the project for a time; but in the latter part of the administration of Mr. Tyler it was revived. Sir, the transactions and occurrences from that time onward, till the measure was finally consummated in December, 1845, are matters of history and record. That history and that record can neither be falsified nor erased. There they stand, and must stand for ever; and they proclaim to the whole world, and to all ages, that Texas was brought into this Union, slavery and all, only by means of the aid and active coöperation of those who now call themselves the "Northern Democracy" of the United States; in other words, by those who assert their own right to be regarded as nearest and dearest to the people, among all the public men of the country. Where was the honorable member from New York, where were his Northern and Eastern friends, when Texas was pressing to get into the Union, bringing slaves and slavery with her? Where were they, I ask? Were they standing up like men against slaves and slavery? Was the annexation of a new slave State an object which "Northern Democracy" opposed, or from which it averted its eyes with horror? Sir, the gentleman from New York, and his friends, were counselling and assisting, aiding and abetting, the whole proceeding. Some of them were voting here as eagerly as if the salvation of the country depended on bringing in another slave State. Others of us from the North opposed annexation as far as we could. We remonstrated, we protested, we voted; but the "Northern Democracy" helped to outvote us, to defeat us, to overwhelm us. And they accomplished their purpose. Nay, more. The party in the North which calls itself, by way of distinction and eminence, the "Liberty Party," opposed with all its force the election of the Whig candidate* in 1844, when it had the power of assisting in and securing the election of that candidate, and of preventing Mr. Polk's election; and when it was as clear and visible as the sun at noonday, that Mr. Polk's election would bring slave-holding Texas into the Union. No man can deny this. And in the party

* Mr. Clay.

Digitized by Google

of this "Northern Democracy," and in this "Liberty Party" too, probably, are those, at this moment, who profess themselves ready to meet all the consequences, to stand the chance of all convulsions, to see the fountains of the great deep broken up, rather than that new slave States should be added to the Union; but who, nevertheless, will not join with us in a declaration against new States of any character, thereby shutting the door for ever against the further admission of slavery.

Here, Sir, is a chapter of political inconsistency which demands the consideration of the country, and is not unlikely to attract the attention of the age. If it be any thing but party attachment, carried, recklessly, to every extent, and party antipathy maddened into insanity, I know not how to describe it.

Sir, I fear we are not yet arrived at the beginning of the end. I pretend to see but little of the future, and that little affords no gratification. All I can scan is contention, strife, and agitation. Before we obtain a perfect right to conquered territory, there must be a cession. A cession can only be made by treaty. No treaty can pass the Senate, till the Constitution is overthrown, without the consent of two thirds of its members. Now who can shut his eyes to the great probability of a successful resistance to any treaty of cession, from one quarter of the Senate or another? Will the North consent to a treaty bringing in territory subject to slavery? Will the South consent to a treaty bringing in territory from which slavery is excluded? Sir, the future is full of difficulties and full of dangers. We are suffering to pass the golden opportunity for securing harmony and the stability of the Constitution. We appear to me to be rushing upon perils headlong, and with our eyes wide open. But I put my trust in Providence, and in that good sense and patriotism of the people, which will yet, I hope, be awakened before it is too late.

Digitized by Google

The Ten Regiment Bill*

Although laboring under deep depression,† I still feel it my duty, at as early a moment as I may be able, to address the Senate upon the state of the country, and on the further prosecution of the war. I have listened, Sir, silently, but attentively, to the discussion which has taken place upon this bill, and upon other connected subjects; and it is not my purpose to enter into the historical narrative, or the historical argument which has accompanied its discussion, on the one side or on the other. New events have arisen, bringing new questions; and since the resumption of the discussion upon this measure, two or three days ago, these events have been alluded to, first by the honorable Senator who conducts this bill through the Senate, and again by the Senator before me from South Carolina. By both these honorable members these events have been declared to be well known to all the world, and by one of them‡ it was remarked that there need be no affectation of mystery. Since these statements were made, I have heard the gentleman from South Carolina§ express his views on the question. I have heard him on various and momentous subjects, on many interesting occasions, and I desire to say, Sir, that I never heard him with more unqualified concurrence in every word he uttered. The topics which he discussed were presented, it appears to me, in their just light, and he sustained his views in regard to them with that

* Remarks in the Senate of the United States, on the 17th of March, 1848, on the Bill to raise for a limited time an additional Military Force, commonly called the "Ten Regiment Bill."

† Intelligence had lately been received of the death, in Mexico, of Major Edward Webster, an officer in the Massachusetts Regiment of Volunteers.

‡ Mr. Cass.

§ Mr. Calhoun.

Digitized by Google

Lewis Cass

From the Painting by G. P. A. Healy, in the possession of Mrs. M. C. Ledyard

Digitized by Google

Digitized by Google

A.W. Elson & Co. Boston

Digitized by Google

Digitized by Google

clearness and power of argument which always characterize his efforts in debate. I thank him.

I thank him especially for the manly stand he took upon one point, which has not been so much discussed here as others; I mean the plain, absolute unconstitutionality and illegality of the attempt of the executive to enact laws by executive authority in conquered territories out of the United States. Sir, whether the power exists in the President or not may be inferred by answering another question, Does he wear a crown? That is the only question. If he wears a crown, if he is the king of the country, if we are his subjects, and they who are conquered by the arms of the country become his subjects also and owe him allegiance, why, then, according to well-established principles, until the interference of the legislature, but no longer even then, he may conquer, he may govern, he may impose laws, he may lay taxes, he may assess duties. The king of England has done it, in various cases, from the conquest of Wales and Ireland down to the conquest of the West India Islands, in the war of 1756, and in the wars growing out of the French Revolution. The king of England has done it; done it by royal prerogative; done it in the government of his own subjects, existing in or inhabiting territories not under the protection of English law, but governed by him until Parliament puts them under that protection.

Now, Sir, there was laid before us, at the commencement of the session, a system of legislation for Mexico as for a conquered country. Let us not confound ideas that are in themselves separable and necessarily distinct. It is not the question, whether he who is in an enemy's country at the head of an army may not supply his daily wants; whether he may not, if he choose so to conduct the war, seize the granaries and the herds of the enemy in whose country he is. That is one thing; but the question is here, whether, sitting in the Presidential house, by an act of mere authority, when the country is conquered and subdued, the President of the United States may, by, and of, and through his own power, establish in Mexico a system of civil law. We have read, Sir, and some of us have not forgotten it, in books of authority treating of the law of nations, that, when a country is conquered or ceded, its existing laws are not changed till the competent authority of the conquering power

Digitized by Google

changes them. That I hold to be the universal doctrine of public law. Well, here is a system of levying taxes, repealing old laws, and making new ones, and a system behind that, of which I read with pain and mortification; for I find in this communication of the Secretary, sanctioned by the President, that our brave troops (as they are always called, ten times in every page) were directed to lay hold on all the little municipal treasures, all the little collections for social purposes, that supported the interior, the municipal, what we should call the parish concerns of Mexico! they were directed to seize them all! The War Department issued orders to chase the government of Mexico like a partridge on the mountain, from place to place, to give it no rest for the sole of its foot; and another order issued from the Treasury Department at the same time directed this seizure of all these small and petty sums of public money. I am obliged, therefore, to the gentleman from South Carolina, for having brought this subject to the attention of the Senate.

I am happy in having an opportunity of expressing my repugnance to all the doctrine and all the practice. Where will it lead to? What does the President do with this money? Why, he supports the army! But this money never passes under any appropriation of law. The Constitution of the United States says that the executive power shall have no appropriations for military purposes for more than two years. But here there is a standing appropriation, put at the disposal and discretion of the President of the United States, of all the money he can collect by this system of personal executive legislation over seven millions of people, and that under the Constitution of the United States! If the statement of this case does not attract the attention of the community, in short, if the question is not argued before an American Senate when it is stated, it is beyond my power to illustrate it by any further argument.

Sir, while I rejoice that the honorable member from South Carolina has done so important a service as to put this question in a proper and clear light before the community and the Senate; and while I agree, as I have said, in all that he has uttered on the topics which he has treated; that topic which weighs upon my mind and my conscience more than all the rest is one which he did not treat, and in regard to which I fear I may not expect (would to God that I might!) his

Digitized by Google

concurrence, and the strength of his arm; I mean the object, plain and manifest, original in the inception of this war, not always avowed, but always the real object; the creation of new States on the southern border of the United States, to be formed out of the territory of Mexico, and the people inhabiting that territory. If, after a service of thirty years in these councils, he could have taken a lead; if his convictions of duty, I mean to say, could have allowed him to take a lead and make a stand for the integrity of the United States, even with these large recent accessions, which I am willing to consider as brotherly accessions that I have no disposition to reject, discourage, or discountenance, in the existing circumstances of the case; if, I say, Sir, at the end of our common service, now for thirty years, the honorable member could have seen his line of duty to lie in such a direction that he could take a stand for the integrity of the United States, these United States into whose service he and I entered in early life, with warm and equally warm patriotic affections, the love of a known country, a defined country, an American country; if he had found it consistent with his duty to take such a stand, and I had perished in supporting him in it, I should feel that I had perished in a service eminently connected with the prosperity and true honor of the country.

Mr. President, I am obliged to my friend from Georgia* for having taken that view of some topics in this case, with his usual clearness and ability, which will relieve me from the necessity of discussing those subjects which he has treated. I feel, Sir, the great embarrassment which surrounds me, brought about by those events which have taken place and been adverted to in the Senate. It has been stated by the gentleman already alluded to,† that the whole world knows that a treaty has come hither from Mexico, that it has been acted upon here, and is sent back; that a member of this body, occupying an eminent position in its deliberations and conduct, has been sent out as a minister, with full powers to make explanations; of course, not explanations of what was done in Mexico, but explanations of what has been done here. There has been such a paper here. I allude to none of its particulars, although, fol-

* Mr. Berrien. † Mr. Cass.

Digitized by Google

lowing the example of the honorable member from Michigan, who says that all the world knows there is a treaty, I might say that all the world knows, too, exactly what the treaty is; for the details are as well known as the principal fact. I feel, Sir, as I said, a new embarrassment. On the events that have occurred here within three weeks, political friends to some extent differ, and that goes nearer to my heart than any shaft that political adversaries could direct.

The war is odious. Generally speaking, taking the whole country together, the war is odious in a high degree. The country is distressed. A treaty has been offered. It has been here, and it has been sent back. Now I feel, Sir, that there has been manifested throughout the country a very strong desire, for the sake of peace, that this treaty, or any treaty, should be ratified. The business of the country is disorganized and obstructed. Men know not what to calculate upon. The occupations of life are embarrassed. The finances of individuals, as well as of the country, are much deranged, the circumstances of individuals placing them in great exigency and necessity of immediate relief; and there has come up a strong expression in favor of *any* treaty, on *any* terms, if it will bring peace. Now, Sir, I am not for *any* treaty, on *any* terms, though it bring peace. In my judgment, with entire diffidence therein and entire deference to the better judgment of others, this indiscriminate demand of peace, under any circumstances and on any terms, is either an effusion of ecstatic delight at the prospect of getting rid of an abominated war, or else the result of a feeling for which I have not so much respect, that we are to take this, whatever it may be; or, I will rather say, that we are to take whatever may be offered, lest our masters should give us harder terms. It is either an overflow of joy at the prospect of putting an end to the war, or else a proof that men's resolution cools.

I believe, Sir, that the press on all sides, with very few exceptions, perhaps, uniting for once, have for the last three weeks pressed the Senate, by their daily counsels and advice, to take the treaty, whatever it may be. All these considerations, which seem to me to spring from the first impulse, and not from the sober second thought of the people, appear to be designed, I will not say designed, but calculated, as they have been calculated, to press forward the counsels of the Senate; and to induce us

Digitized by Google

to take any bit of parchment, or any bit of paper, which could be called or concluded to be a treaty, to clench it, and confirm it, with our eyes blindfolded; no, Sir, with our eyes dead, sightless as the eyes of a marble statue, to all the future.

On these subjects, Sir, to the extent to which it may be proper for me to discuss them, I wish to declare my sentiments once for all; not going back to the origin of the war, not reëxamining orders of the executive, not pausing to consider, as my honorable friend from Georgia has done, the various stages in the progress of the campaigns, in which it might seem to have been, and I think he has proved that it was, the duty of the executive to consider the propriety of arresting the war. Without attempting any of this sort of discursive dissertation upon the case, I nevertheless desire to express my opinions upon the state of the country, upon the further prosecution of the war, and upon that most important, and, if not vital, most interesting question, the revenue, and the ability of the country, under the existing legislation of Congress, to supply the public demands. An understanding, however, was entered into yesterday, to which I was a party, that the question upon the final passage of this bill should be taken to-day. I do not propose to depart from that understanding. If I had strength, which I have not, and health, which I have not, there is not time, without forcing the Senate into a very late session, to say what I wish to say. I will, therefore, with the permission of the Senate, and I hope not without the concurrence of the honorable member who is at the head of the Finance Committee, postpone what I have further to say upon this subject until the early part of next week, when I understand the loan bill will be before us. This measure is to raise men; that measure is to pay them. The object, therefore, of both is one, the further prosecution of the war with Mexico. What I have to say, then, may as appropriately be said on one bill as the other, and therefore I shall not now detain the Senate; but if an opportunity should be offered, upon the earliest introduction of the loan bill, I shall claim the privilege of expressing myself on the several points to which I have now alluded.

General Cass followed, at considerable length, in defence of the principles on which the war had been conducted. At the conclusion of his speech Mr. Webster made the following remarks: —

Digitized by Google

I entertain no intention of discussing the general topics introduced in the speech of the honorable gentleman. On one point only I wish to say a few words, and that is with regard to the remarks which he made upon the speech of the honorable member from South Carolina,* and some observations of my own upon this assumed authority by the executive of the United States to levy and collect taxes in Mexico. Now, Sir, when gentlemen of experience and character debate these grave questions, the first thing is to ascertain what these questions are, and to present them truly, according to their character, for discussion. The honorable member from Michigan supposes that this levying of taxes and imposts in the territories of Mexico, by the authority of the President of the United States, is an act of war. It is no such thing.

Mr. Cass (in his seat). It is a right of war.

It is neither an act nor a right of war, according to the law of nations. He calls it a contribution. It is no contribution. It is a legislative act; and when the honorable member quoted those portions of the United States Constitution which he thought applicable to the case, he might without impropriety have quoted another passage, which says that all legislative power is vested in the Senate and House of Representatives.

Now, it comes exactly to this: Is the establishment of a code of customs in Mexico an act of war, or an act derived from war, or an act of legislation? Why, clearly, it is the latter. I want to know how the President of the United States can overturn the revenue law of Mexico, and establish a new one in its stead, any more than he can overturn the law of the descent of property, the law of inheritance, the criminal code, or any other portion of Mexican law? A contribution levied upon Mexico! It is no such thing. What is it? It is a code of custom duties, framed here in the Treasury Department, and sent to Mexico, to be exercised upon whom, and upon whose property? Upon the Mexicans? Why, no, Sir. Very little of it upon Mexicans, because it is a law of imposts. It is a law upon those who import goods and merchandise into Mexico, upon all the neutrals of the world, upon all non-combatants; and not only

* Mr. Calhoun.

Digitized by Google

that, but it is a law levying a duty of imposts upon goods and merchandise carried thither by citizens of the United States; and that the honorable gentleman calls a "contribution"!

Mr. Cass. I do.

Well, then, I think he calls things by names which have no more relation to them than black has to white. It is not a contribution at all.

Mr. Foote. I would ask the honorable gentleman whether he conceives it to be the duty of the government of the United States to protect the revenue officers of Mexico in the collection of duties; or should their proceedings have been superseded by proceedings of a similar kind on the part of the United States? What would he have done in the case?

Just exactly what Congress in its discretion shall think fit to do. What I say is, that it is an exercise of legislative power, and no exercise of military power. If there is any analogy between that and the case mentioned by the honorable gentleman, of the marshals of the French army levying contributions as they marched from city to city, *flagrante bello*, at the head of their forces, I do not understand the logic which makes the comparison. Nor can I perceive any analogy in the cases. When an army marches through an enemy's country, it is supposed to have the right of supporting itself by the strong hand; it has the absolute right of war, whether it choose to exercise it or not, to make plunder and to seize private property. And what is contribution? Why, it is a substitute for the law of pillage, the practice of plunder. When an army approaches a city, the commander of that army asks so much support, so many thousand crowns, such and such provisions; he says he will take them by the strong hand, unless the authorities compound by giving so much money, in consideration of which he will forbear the exercise of that military right.

Let me ask the honorable gentleman another question. A part of this system sanctioned by the President was, that the moneys collected by these levies should be paid over to the military and naval officers. Could they not just as well have been ordered to be brought here, and put into our treasury? Does it make a particle of difference, and is it not a system of revenue established under executive authority in Mex-

Digitized by Google

ico? and will any man call that military contribution? Let it be shown by any authentic work on national law, by any decided case, by any course of reasoning or argument, that the levying of a permanent system of revenue, in a conquered territory, is exactly the same thing as a temporary or occasional military contribution of a marching army, and then the charge brought against the administration cannot be maintained.

Ex. J. M.

Digitized by Google

Digitized by Google

Digitized by Google

Digitized by Google

Digitized by Google

Digitized by Google